DOCUMENT RESUME

ED 119 407 EC 081 480

TITLE The Developmentally Disabled Offender in the Illinois Criminal Justice System.
INSTITUTION Correctional Services for the Developmentally Disabled, Inc., Chicago, Ill.
PUB DATE Jun 75
NOTE 214p.

EDRS PRICE MF-$0.83 HC-$11.37 Plus Postage
DESCRIPTORS Cerebral Palsy; *Community Agencies (Public); *Corrective Institutions; *Courts; *Criminals; Delinquency; Epilepsy; Exceptional Child Research; *Law Enforcement; Mentally Handicapped; Police; State Surveys
IDENTIFIERS *Developmental Disabilities; Illinois

ABSTRACT

Reported are findings from five studies which explored the special problems and needs of the developmentally disabled offender in the Illinois criminal justice system. Introductory information includes a discussion of the problem, goals of the present study, and a review of programs for retarded offenders throughout the U.S. Presented are five studies based on interview and questionnaire data collected from law enforcement officers, judical personnel, correctional institutions, developmentally disabled offenders (50 case studies), and community agencies serving the mentally retarded, the cerebral palsied, and the epileptic person. Among findings revealed are that police officers in Illinois do not have the training to detect symptoms of developmental disability; that judical personnel support community based programs and special institutions as alternatives to prison for developmentally disabled offenders; and that community agencies tend to provide developmentally disabled offenders services such as referral and recreation rather than more expensive services such as special living arrangements or training. Recommendations stemming from each study are outlined such as the need to standardize the definition of mental retardation within the judicial system and to train correctional personnel to identify and work with the retarded. Appendixes consist primarily of research instruments used in the studies. (LS)

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ED119407

The Developmentally Disabled Offender in the Illinois Criminal Justice System

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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EC081480

Prepared by Correctional Services
Chicago, Illinois
June 1975

Published by

CORRECTIONAL SERVICES FOR THE
DEVELOPMENTALLY DISABLED, INC.

4803 South Wabash Avenue
Chicago, Illinois 60615

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ABSTRACT

This study explored the special problems and needs of the developmentally disabled offender in the Illinois criminal justice system. Five substudies were undertaken in order to examine the major aspects of this complex problem. Interview and questionnaire data were collected from law enforcement officers; judicial personnel; correctional institutions; developmentally disabled offenders; and community agencies serving the mentally retarded, the cerebral palsied, and the epileptic person.

Generally, the results of the study indicate that much needs to be done in Illinois in terms of identifying developmentally disabled persons who come in contact with the criminal justice system and of providing meaningful treatment. In no part of the system are personnel adequately trained to detect these handicapped persons nor are adequate resources available for positive diagnosis, evaluation, or referral. Among the major problems cited were those resulting from 1) laws that confound mental retardation with mental illness, 2) improper identification of the developmentally disabled persons, and

3) lack of special programs, services, or facilities, especially in correctional institutions for these handicapped individuals. Alternatives to incarceration in traditional correctional institutions for those retarded offenders who are seriously handicapped or who have committed minor offenses were desired by the large proportion of professionals and staff interviewed. Community agencies were seen as a viable alternative to incarceration as well as a needed resource subsequent to incarceration for providing programs and services to help the developmentally disabled ex-offenders function more adequately.

This study generated a list of recommendations pertinent to all aspects of the system investigated. It also identified the need for more research in this important area; hopefully, this preliminary exploration will be followed by a series of more definitive studies.

... ...

C. Vincent Bakeman - Principal Investigator
Doris M. Lomax - Investigator Coordinator
Audrey Smith, Ph.D. - Research Coordinator
Herb Scott - Investigator
Lorraine Perry, Ph.D. - Investigator
Myra Nash - Investigator
Amos Moore - Investigator
Ernestine Washington, LL.D. - Investigator

Student Investigators
Rudolph Bailey Doris Black
Chester Hughes Mattie Norwood
Florence Smith

C
CORRECTIONAL
SERVICES
CENTER
4803 SOUTH WABASH AVENUE
CHICAGO ILLINOIS 60615
312-928-1729

August 25, 1975

Miss Georgi Jones, Chairman
Governor's Advisory Council
for Developmental Disabilities

Dear Ms. Jones:

On behalf of the Board of Directors for Correctional Services, Inc., I would like to extend our sincere appreciation to the Governors Advisory Council for Developmental Disabilities for the opportunity to complete this exploratory research project entitled, "The Developmentally Disabled Offender in the Illinois Criminal Justice System".

The Board of Directors and myself stand ready to further assist you and the Council Members in implementing the recommendation within this study.

Sincerely yours,

Milton Moses

Milton Moses
Chairman of the Board of Directors
Correctional Services, Inc.

I. INTRODUCTION

Only recently in this country has major attention been focused on the problem and treatment of mentally retarded offenders in the criminal justice system. The landmark study in the area is the survey conducted by Brown and Courtless on mentally retarded offenders incarcerated in penal and correctional institutions throughout the United States.[1] Since then empirical inquiries have begun in several states in order to identify specific problems and needs of mentally retarded offenders and to recommend changes for more effective and constructive handling of these persons. This study proposes to explore in a systematic and comprehensive manner the problem of the mentally retarded offender incarcerated in Illinois and to make recommendations based upon the findings.

The terms "developmentally disabled" and "mentally retarded" are both used throughout this report to describe the population of interest although obviously the terms are not synonymous. "Developmental disability," as defined by the Social and Rehabilitation Service of the Department of Health, Education, and Welfare, includes cerebral palsy and epilepsy as well as mental retardation. However, the first two conditions represent only a small proportion of the "developmentally disabled"

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1. Bertram S. Brown and Thomas F. Courtless, "The Mentally Retarded Offender," paper prepared for The President's Commission on Law Enforcement and Administration of Justice, Washington, D.C., 1967.

generally, and probably an even smaller proportion of those known to the criminal justice system. Thus, while attention was paid to the other two groups, this study was concerned primarily with the mentally retarded as they are the most numerous.

The term "criminal justice system" is used to refer to the entire system available to deal with crime and criminals. Its principal components--the police, courts, and corrections--are referred to in this study as the law enforcement system, the judicial system, and the correctional system.

THE PROBLEM

The problem concerning the retarded person in the criminal justice system is two-fold, as Allen points out: failure of the system to identify the retardate and failure to provide meaningful treatment. Although there are several points in the criminal trial process at which the defendant's retardation might be expected to be revealed, it frequently is not. Even if it is discovered, this fact plays no significant part in the outcome of the case.[2] Thus, to the extent that the unlawful act is related to the mental condition of the accused consideration of rehabilitation is irrelevant.

Among the major findings of the 1963 survey conducted by Brown and Courtless of mentally retarded offenders incarcerated in penal and correctional institutions in the United States are the following:

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[2] Richard C. Allen, "The Retarded Offender: Unrecognized in Court and Untreated in Prison," Federal Probation 32 (September, 1968), 25-27.

1. About 9.5 percent of these inmates are mentally retarded, using I.Q. 69 as the upper limit of the mentally retarded range. /This compares with an estimate of 3 percent for the general population./

2. About 1.6 percent of the surveyed population had I.Q. scores below 55, with the range falling to 17.

3. The proportion of retarded inmates varies sharply according to geographical region.

4. Crimes against property (larceny, breaking and entering, and burglary) were the most commonly committed offenses by mentally retarded inmates, according to information supplied by the institutions. However, 57 percent of the inmates with I.Q.s below 55 were incarcerated for crimes against persons (*e.g.*, homicide, assault, and sexual offenses).

5. Approximately 70 percent of the reporting institutions routinely test the intelligence of inmates upon admission. However, the tests used and the testing procedures varied widely.

6. Over half (56 percent) of the surveyed institutions had no ongoing programs specifically designed for retardates. The most common type of program in institutions responding affirmatively was special and/or vocation education. Associated with this lack of special programs was a general lack of mental health manpower resources available to the institutions.[3]

Brown and Courtless conclude, "The problem of the mentally retarded offender is small in absolute numbers and large in significance."[4] That is, the problems which these offenders present exceed their numbers. In addition, help for them is usually not forthcoming; those concerned with treatment for the mentally retarded reject them because they are "criminal," and the correctional system does not meet their special needs because to do so would exhaust the limited resources of most penal institutions.[5] Some states, for example, Texas, South Carolina, and Georgia, are exploring these problems and offering suggestions for resolving the dilemma in their areas. Selected reports of these studies are reviewed later in this section.

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[3] Brown and Courtless, pp. 29-34.

[4] *Ibid.*, p. 1.

[5] Allen, p. 24.

PRESENT STUDY

To maximize knowledge of possible effective ways to provide services to retarded offenders, an investigation of other state programs was made prior to examining the developmentally disabled offender in the Illinois criminal justice system. General purposes of the latter empirical phase of the project were to highlight the special problems and needs in Illinois, to provide the basis for discriminate use and adaptation of other states' selected programs and services and to develop innovative programs for Illinois.

The specific objectives of this study were:

1. To determine the nature and scope of the problem of the developmentally disabled offenders in the criminal justice system in Illinois.
2. To ascertain the quantity and quality of services and programs--such as diagnostic, educational, vocational, counseling--available for the developmentally disabled offender.
3. To assess the unmet needs of developmentally disabled offenders while in the criminal justice system, particularly within the correctional system.
4. To make recommendations concerning needed changes in the criminal justice system for more effective and constructive handling of developmentally disabled offenders and to offer suggestions concerning needed community-based programs.

To accomplish these objectives, an exploratory study of developmentally disabled offenders in Illinois, with special emphasis on Cook County, was undertaken. Because little systematically catalogued knowledge is currently available about developmentally disabled offenders in Illinois, this study was set up to concentrate on in-depth interviews with those persons most likely to know about or be concerned with this phenomenon. Data were obtained from three major groups: developmentally disabled offenders and their families, professionals and other staff in the criminal justice system, and community-based agency personnel. Personal interviews and questionnaires, which permitted broad coverage of the groups surveyed, constituted the major data collection methods.

The research consisted of substudies in five areas: the law enforcement system, the judicial system, the correctional system, case studies of developmentally disabled offenders, and community-based programs. The research methods used and the results of the investigations are reported separately for each substudy in subsequent sections of this report. All of the recommendations are found in the final section of this report.

REVIEW OF PROGRAMS FOR RETARDED OFFENDERS

Treatment of the mentally retarded offender in the criminal justice system has only recently become a matter of concern in this country. Tracing the historical development of professional interest in, and society's response to, the mentally retarded offender, Brown and Courtless identify three periods with distinctive characteristics. The first, approximately 1890-1920, was a period of "Early Enthusiasm." Throughout this period there was a great deal of interest in determining the relationship between mental retardation and criminal behavior. It was then generally believed that mental retardation automatically resulted in criminal behavior; in fact, such phenomena as mental retardation, crime, insanity, and degeneracy were lumped together in a broad category of deviancy. With the advent of intelligence testing during the latter part of this period, mental retardation began to be differentiated from other types of deviancy and seen as a major cause of crime.

The period of "Denial and Neglect," 1921-1960, was characterized by a movement away from viewing intelligence as a significant causal factor in crime and delinquency. The importance of cultural and social factors (in addition to heredity) in intelligence began to be recognized, and several studies showed that the intelligence levels of offenders and nonoffenders were not significantly different when environmental factors were held constant. The findings of the ecological school of criminology, whose basic premise was that behavior, whether criminal or not, is learned in a social process, helped to minimize the importance of the relationship between mental retardation and criminal behavior.

Beginning in 1961, this relationship became of interest in the third and current period, which Brown and Courtless refer to as "The Contemporary Scene." This phase, reflecting concern on the part of the legal community, was ushered in by two major events: 1) the publication of Mentally Disabled and the Law, reporting on an extensive study by the American Bar Foundation, in which attention is given to the problems of the mentally retarded accused person, and 2) the report of President Kennedy's Task Force on Law, which raised many questions concerning the retarded person and the criminal justice system, such as competency to stand trial, criminal responsibility, admissibility of confessions, and the advisability of incarcerating retarded offenders in penal or correctional institutions. Currently, there is growing interest in these problems as evidenced by research endeavors, the development of state plans to deal with some of the problems, and the beginning implementation of programs and services designed specifically to ameliorate the problems of the mentally retarded in the criminal justice system.

Historically, mentally retarded offenders in the United States have been dealt with primarily by attempting to provide separate or special institutional facilities for them. The intent was to separate them from retarded nonoffenders, on whom they might have a deleterious effect. Because the concern was for the welfare of the defective nondelinquent, it is not surprising that the segregated units or separate facilities for retarded offenders were custodial in nature. In addition, there was concern about the management problems presented by confining retarded offenders in penal institutions, and again separate institutions were recommended but few came into existence. Two pioneer institutions for defective delinquents, which were founded in Massachusetts and New York in the 1920s, purported to provide such treatment as education, recreation, and industrial and agricultural training. However, until recently efforts at separation were aimed basically at providing long term custodial care under maximum security conditions. Only now are we in the United States becoming concerned about providing a therapeutic or treatment orientation in the institutionalization of retarded offenders. This contrasts with England and Sweden which have been concerned with retraining and resocialization of the retarded offender population since the early 1900s. With very few exceptions, our recent concerns have yet to be translated into practice.

A number of states have developed very broad general plans for action needed to ameliorate their problems concerning the mentally retarded offender. Brown and Courtless, in reviewing some of the early plans, found that recommendations fell into two broad areas: 1) providing specialized facilities and programs for retarded offenders; and 2) examining certain aspects of the criminal law procedure, specifically those relating to the issues of criminal responsibility and to the detention of retarded persons found incompetent to stand trial. Few of the early state plans dealt with the need for improving the treatment or finding management alternatives for retarded offenders; only a handful of states recommended special facilities or programs. New York went further than any other state in this respect by proposing a specific type of institution. Regarding criminal responsibility, Connecticut and Florida questioned the appropriateness of the M'Naghten Rules to deal with accused retarded persons. New Jersey and Illinois urged courts to recognize the chronic nature of mental retardation and the individual differences among retarded offenders. Such numerous variations raise serious question about the position, sometimes advocated, of absolving all retarded offenders from criminal responsibility. The application of a general procedure for mentally ill and mentally retarded persons found incompetent to stand trial raised questions for several states, including New York, West Virginia, Illinois, and Pennsylvania. Because of the chronic character of retardation, the procedure of hospitalizing a retarded accused person until he is competent to stand trial often results in his lifetime commitment.

As part of its study of Georgia's criminal justice system as it relates to the mentally retarded, the Atlanta Association for Retarded Children recently reviewed four additional state plans: Arkansas, Louisiana, Missouri, and New Mexico. All of the plans indicated the need for beginning efforts such as developing task forces or committees to investigate the nature and scope of the problem in their states. Other needs expressed involved examining legislation, training of policemen and others in the criminal justice system, educating the public, providing hot line services, establishing a central registry of retarded offenders, developing better identification procedures, and disseminating information on the retarded to relevant persons and agencies. All four state plans were rather global and pointed to the need for improvement in many areas; specific recommendations and plans for their implementation seemed contingent upon further study of the problem.

The South Carolina Department of Corrections conducted a mail survey in 1973 of correctional systems in all states and the District of Columbia to learn about treatment programs for retarded offenders. Of the 42 states that responded to the questionnaire, only 18 either had or planned to have programs for mentally retarded offenders. North Carolina, for example, attempts to identify early those inmates who are retarded and to place them in a separate program which provides special basic education and vocational training. Research in Florida resulted in recommendations for implementing a pilot program for retarded inmates. It would include the establishment of a separate facility for retarded inmates and the categorization of inmates by degree of retardation to facilitate education and training programs. It was further recommended that this unit should have the capacity to serve 50 mentally retarded offenders who are in the last 18 months of their sentence. The survey concluded that although the majority of state correctional systems recognize some of the problems associated with having mentally retarded offenders in correctional institutions, most have done, or have been able to do, little about these problems. The major constraint is lack of money.

The South Carolina study provides an excellent illustration of the kind of extensive exploratory research that is needed in this area. The major findings of the study and the recommendations resulting from it are discussed below.

As part of a larger effort to develop a better rehabilitation program for all offenders, the South Carolina Department of Corrections embarked upon a study of its retarded offenders. Obtaining the cooperation of the State Department of Mental Retardation, the investigators sought to define the nature and scope of the problem of retardation among the inmate population of the state correctional system. The 1973 study concluded that the state's system of incarcerating retarded inmates with other inmates was highly inappropriate. It found that although a sizable number of inmates were retarded, these inmates were afforded very little specialized treatment.

As recommended by the earlier exploratory investigation, more extensive research was undertaken in 1974 to investigate the feasibility of diversionary programs for the mentally retarded offender and to assess both the evaluation procedures within the South Carolina Department of Corrections and the feasibility of offering specialized treatment programs. While recognizing that some mentally retarded offenders would require incarceration because of either their behavior or the nature of their crime, a system emphasizing early diversion of retarded offenders was thought to be beneficial for society as well as for the individual offender. Primary benefits would be avoiding duplication in the Department of Corrections of services and programs already administered by other agencies, decreasing recidivism among the retarded by preparing them better to function in society, and preventing the abuses retarded offenders frequently suffer at the hands of more intelligent peers in correctional institutions. Although the majority of people interviewed in the study--judges, lawyers, probation officers, staff of community agencies and organizations--favored some type of diversion, the investigators concluded that a formal program of early diversion in the state was not immediately feasible. The implementation of such a program would be contingent upon new legislation, funding, and interagency agreements--all of which would require a substantial period of time to accomplish.

However, two other major recommendations were thought to be capable of more immediate implementation. One of these recommendations was for improved identification and evaluation of retarded inmates. The most serious criticism of current procedures was the use of the Revised Beta Examination, commonly used in correctional systems, as the sole determinant of intelligence. A comprehensive evaluation procedure was suggested which would utilize the expertness of the Departments of Corrections, Mental Retardation, and Vocational Rehabilitation.

The other major recommendation was for a separate facility within the correctional system for retarded inmates. Components of the treatment program suggested were academic education, vocational training, personal adjustment counseling, and on-the-job training. Both individual and group therapy were thought necessary for this population. In addition, organized recreational, music, and arts and crafts programs were recommended. Since the primary emphasis in this separate facility or specialized unit would be on rehabilitation and not punishment, it was recommended that inmates be released from institutionalization as soon as the treatment staff believe they can function adequately in society. Currently, there exists in South Carolina a small, limited program for certain retarded inmates, in which the Departments of Corrections, Mental Retardation, and Vocational Rehabilitation collaborate. The changes proposed in the study would greatly expand this program.

Another of the few states to engage in extensive research on the mentally retarded offender is Georgia, which estimates that 27 percent of its prison inmates have I.Q.s under 70. This compares with 9.5 percent for the national prison population. The two-year investigation, which began in 1973, is concerned with the retarded offender in the three principal areas of the criminal justice system--law enforcement, judicial, and incarceration. The main purpose of the study is to develop a model service system for treating the retarded offender. While the emphasis is on services to the retarded individual in correctional and penal institutions, attention will also be given to post-incarceration programs for successful reintegration of retarded ex-inmates into society and alternatives to incarceration for retarded offenders. The study is being carried out in three phases: planning, empirical inquiry and recommendations based upon the findings, and implementation of the recommendations. Because the recidivism rate of retarded offenders is high in Georgia and little or no formal educational or rehabilitation programs exist for retarded offenders, this study is expected to have major import in the state.

To summarize briefly, interest in the mentally retarded offender in the criminal justice system was reawakened in the 1960s. To date, little has been done in this country to resolve the myriad problems in this area. With the impetus of federal funding, many states have developed comprehensive plans for attacking the problem. Unfortunately, action has been slow to follow. Two major constraints are lack of money and lack of knowledge about ways to implement the broad general recommendations included in the state plans. A few states--among them Florida, Texas, South Carolina, and Georgia--are conducting research in order to assess the needs more accurately and to develop concrete proposals for meeting these needs. It remains to be seen how well these recommendations will be implemented in new or changed legislation, procedures, facilities, programs, and services.

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II. THE LAW ENFORCEMENT SYSTEM

INTRODUCTION: THE ILLINOIS LAW ENFORCEMENT SYSTEM

In focusing upon the developmentally disabled person--that is, the mentally retarded, the epileptic, or the cerebral palsy victim-- and his relationship to the creiminal justice system, it is noted that the initial point of contact is the law enforcement segment. Police departments, by the nature of their functions and duties, are usually the first to be called if there is fear of danger due to socially unacceptable behavior or signs of physical disability. This is certainly true in the case of the mentally retarded or disabled person.

In such instances, it is important that police personnel detect that the person's behavior or physical disability is due to developmental disability so that prompt and responsible action can be taken. This element is equally important in instances where a person has been taken into custody for investigation of, or been accused of, the commission of a crime.

The development of a coordinated system for the delivery of services by law enforcement agencies in Illinois was born out of the federal government Omnibus Crime Control and Safe Streets Act of 1968 which recognized that dealing with crime was largely the concern of state and local government while still an effort in which the federal government should provide support and assistance. The Act further stipulated that the federal government would provide such support and assistance through a grants-in-aid program to the states. The program's emphasis is on long-range planning and integration of various components of the law enforcement and criminal justice system. Thus was created the Law Enforcement Assistance Administration (LEAA). There are some 55 criminal justice agencies in the United States and its territories.

Organization Structure of the Illinois Law Enforcement System

Material from the Illinois Law Enforcement Commission indicates that in the State of Illinois, police services are primarily the responsibility of local government. State level police services account for approximately 10 percent of the total expenditures for police in Illinois.

Local Level Police Services

There are 102 counties in the state, each having an elected county sheriff. The county sheriff departments employ a total of 1,866 sworn personnel who serve 1,416,463 people in unincorporated areas of the state, which comprise about 12.5 percent of the total state population.

Municipal Level Police Services

There are 739 full-time municipal police departments located in the state. They employ 21,435 sworn personnel.

Figures from the Illinois Law Enforcement Commission show that Illinois, with 2.3 officers per 1,000 people, is slightly under the national average of 2.4 officers per 1,000 people. In order to meet the national average, Illinois needs an additional 7,800 law enforcement officers.

Total expenditures for local law enforcement in Illinois amounted to $385,375,920 in 1972. This constitutes 90 percent of the total expenditure for state and local police service.

Local Police Training

In the state, local police training is provided by a number of agencies on a local, regional, and statewide basis. The Illinois Local Governmental Law Enforcement Officers Training Board (Illinois Training Board) is the statutory body responsible "to raise the quality of police officers." Under terms of the Illinois Police Training Act, a municipality or county may elect to participate in the program, thereby agreeing to send all new personnel to the basic recruit training course established by the Training Board and offered at one of the certified training institutions. Participating cities and counties are reimbursed 50 percent of the total cost of training, including registration or tuition fees, food and lodging, salary during the training period, and transportation costs. Only the basic recruit courses are required though there is encouragement to take advance basic management and other in-service programs.

In fiscal year 1973, the Training Board had a budget of $2,803,203, of which $103,203 was for administration and $2,700,000 for officer training. During the year, according to the Illinois Law Enforcement Commission, some 1,182 officers received basic training and 5,658 received advanced and specialized training in 1973.

The two primary training agencies are the Chicago Police Department and the Police Training Institute at the University of Illinois, Champaign. The Chicago Police Department conducts a 31-week mandatory recruit training course, including 16 college credit hours in law enforcement, the behavioral sciences, and applied psychology. The Police Training Institute offers a 240-hour basic recruit course as well as a year-round program of advanced and specialized training for officers throughout the state.

Certified by the Training Board to offer advanced and specialized training in traffic management and supervision is the Northwestern University Traffic Institute. Other agencies certified for basic training and in-service training on a local or regional basis include the Cook County Sheriff's Police Academy, plus several colleges and junior colleges. The Illinois Law Enforcement Commission reports show that 96 percent of the sworn personnel working for state police programs have participated in certified training programs.

Closely related is the training sponsored jointly by the Illinois Association of Boards of Fire and Police Commissioners and the Illinois Association of Chiefs of Police, which has established a Bureau of Testing Services for the use of Illinois law enforcement agencies.

Illinois Department of Law Enforcement

The Department of Law Enforcement became operational in January 1970. It expanded and replaced the policing and certain other related duties previously vested in the Department of Public Safety. One of the key organizations under this structure is the Illinois State Police.

The State Police, which constitute one of the largest divisions under the Department of Law Enforcement, are organized into fifteen districts with a fiscal-year 1973 budget of $38,656,200. They employ 1,700 sworn personnel with primary responsibility for highway traffic control and limited responsibility in general law enforcement in unincorporated areas. In addition, the state police operate a 24-hour statewide communications network.

Chicago Police System

The largest police department in the state is the Chicago Police Department. According to information published by the Chicago-Cook County Criminal Justice Commission, this Department has over 13,000 sworn personnel, and in 1973 expended approximately $200-million for its varied and manifold operations.

THE ILLINOIS MENTAL HEALTH CODE

Examination was made of the Illinois Mental Health Code, revised as of 1975, for reference to law enforcement agencies and personnel and their role in relation to the developmentally disabled person. Following are cited sections of Chapter 95½, Illinois Revised Statutes, 1975.

> Section 1-22. "Peace Officer" means any sheriff, police officer, or other person deputized by proper authority to serve as a peace officer.
>
> Section 3-4. Receipt of an application and physician's certificate under Article VI or a petition and physician's certificate under Article VII authorizes a peace officer to whom presented to apprehend the person named therein and transport him to a hospital or the application and physician's certificate under Article VI or the petition and physician's certificate under Article VII may be presented to the court of the county in which such person resides or is found, and if such court is satisfied that the welfare of the person or the general public requires it, the court may order that a writ be issued directing a peace officer to apprehend and transport the person named to a hospital.

Under reciprocal agreements with corresponding mental health agencies of other states, the Illinois Mental Health Code provides in part as follows:

> Section 12-7. ... The Department, subject to the approval of the Attorney General, may enter into reciprocal agreements with corresponding agencies of other states regarding the interstate transportation or transfer of person hospitalized as mentally retarded or persons in need of mental treatment and may arrange with the proper officials for the acceptance, transfer and support of persons who are residents of this State, but who are temporarily detained or who are receiving psychiatric or mental care in public hospitals or other states in accordance with the terms of such agreements. In the case of person brought into this State under any agreements authorized under this Section, local peace officers may upon request of the Department receive and arrange for hospitalization of such persons pursuant to this Act.

It clearly appears from the sections cited above that the Mental Health Code gives no authority to law enforcement personnel over the person of individuals who are mentally retarded except for purposes of apprehension and transportation for court or state hospitalization purposes.

Under Sections 7-1, 7-2, and 7-3 of the Illinois Mental Health Code, it is possible for any adult, including law enforcement personnel, to submit a developmentally disabled person to a state hospital for emergency admission. The provisions, however, appear to be somewhat burdensome, and therefore may not appeal to law enforcement personnel. The provisions of these sections are as follows:

> Section 7-1. When any person is or is asserted to be mentally retarded or in need of mental treatment and in such a condition that immediate hospitalization is necessary for the protection from physical harm of such person or others, any person 18 years of age or older may, in the county where such person in need of mental treatment or mentally retarded person resides or is found, present to the superintendent of a hospital a petition stating the reasons for such conclusion. Such petition must also state the name and address of the spouse or other nearest relative or if none, of a friend of such person asserted to be in need of mental treatment or mentally retarded, if known to petitioner and, if not known, that diligent inquiry has been made to learn the name of such persons; the name and address of the guardian, if any, of the person asserted to be in need of mental treatment or mentally retarded; and the names of the witnesses by which the facts asserted may be proved. The petition may be prepared by the superintendent of any hospital, as well as by other persons. Such petition must be accompanied by the certificate of a physician not an employee of, or financially interested either directly or indirectly in, any licensed private hospital in which hospitalization is sought, certifying that the person is in need of immediate hospitalization, as in need of mental treatment or is mentally retarded and the reasons for such conclusion. If the person is asserted to be mentally re-

> tarded, such certificates may be executed by a physician or psychologist. Such certificates must be based upon a personal examination of the person asserted to be in need of mental treatment or mentally retarded, made not more than 72 hours prior to admission. Upon presentation of the petition and certificate to the superintendent, the patient may be admitted to or hospitalized in a hospital pending procedures specified in this Article.
>
> Section 7-2. If, owing to the fact that no physician, or psychologist, if the person is asserted to be mentally retarded, is immediately available, it is not possible to obtain the certificate provided for in Section 7-1, then such person asserted to be in need of immediate hospitalization as in need of mental treatment or mentally retarded may be admitted to a hospital upon presentation of the petition alone pending the obtaining of such a certificate.
>
> Section 7-3. No person may be hospitalized without a certificate unless a petition is executed in writing stating, under penalty of perjury, the circumstances under which the person's condition was called to the petitioner's attention, that the petitioner believes as a result of his personal observation, that the person is in need of mental treatment or mentally retarded and because of his illness is likely to physically harm himself or others if not immediately hospitalized, and that an effort was made to obtain a physician's certificate but that it was found impossible to do so because no physician could be found who had examined or could examine the patient. No person hospitalized under this Article on the basis of petition, without a physician's certificate, may be detained for more than 24 hours unless, within that period, a physician's certificate meeting the requirements of Section 7-1 hereof is furnished to or by the hospital. If no such certificate is received, the patient shall be released from detention no later than the end of the 24-hour period.

Being thus restricted, a law enforcement officer who apprehends and arrests a mentally retarded person whose condition is obviously apparent must submit the person to a physician or hospital. In Chicago, facilities are available for emergency cases, one of the largest of which is Cook County Hospital.

Chapter 38 of the Illinois Revised Statutes is the Criminal Code of the State of Illinois. In addition, there are numerous local ordinances under which law enforcement personnel are authorized to apprehend and make arrests for violations thereof. Most arrests are made under these provisions of our laws. If a developmentally disabled person is apprehended, arrested, and charged with the commission of a crime, the mental condition of the person may go undetected until such person enters into either the judicial or correctional departments of the criminal justice system. Inability to identify mental illness or mental retardation at the time of arrest can present a serious danger. To merely hold such a person in a police detention facility until he can be brought into court may invite unnecessary and tragic events, such as suicide or the attempt thereof, or aggravated assault. The term "detention facilities" covers local police station lockups and jails. Persons arrested and awaiting release on bail or an appearance in court are held in such facilities. The span of time involved can be anywhere from a few minutes to several days. These facilities are under the care of the local law enforcement personnel and generally there are no specialized professional resources available in them for purposes of identifying the developmentally disabled person from other types of aberrant behavior, such as drug abuse or intoxication. The mentally retarded person is detained in the same quarters with other persons who have been arrested and is frequently subject to the aggressive behavior of his fellow detainees, or in the converse, may inflict assaultive and aggressive behavior upon them. In the latter instance, the law inforcement officers may themselves use forceful, and sometimes brutal, tactics in an attempt to subdue the aggressive detainee. Such incidents emphasize the need for resources available at the law enforcement level to identify the developmentally disabled person so that positive action can be taken. The Cook County Jail has limited resources available, but due to serious overcrowded conditions, these resources are woefully inadequate and often ineffective.

Where an arrest is made for a minor infraction of the law, the more progressive law enforcement agencies have the option of diverting the person so arrested to either local law enforcement or community-based correctional programs. Most of these programs are neither designed nor equipped to deal with the mentally retarded person.

There are numerous community-based mental health facilities throughout the state, the largest number of which are in Cook and DuPage Counties. However, there does not appear to be uniform admission policy guidelines for these facilities. A survey made of community-based mental health facilities, reveals that admission policies may be based on any one of the following factors: 1) geographic residence, 2) age, 3) whether the person needs residential or out-patient treatment, 4) ability of the mentally retarded person to be vocationally trained, and 5) financial ability of the mentally retarded person, his family, or guardian to pay for services. The individual law enforcement officer, then, who arrests a mentally retarded person for a minor violation, is left on his own, so to speak, whether to locate a community-based mental health facility or release the person without benefit of any assistance.

Examination of reports and records of the Psychiatric Institute of the Circuit Court of Cook County indicates that of those persons brought before the courts and charged with crimes each month, approximately 150 are certified to be in need of mental treatment. In addition, the records show 1) that approximately 25 to 30 percent of Psychiatric Institute's monthly caseload of patients have had one or more prior examinations, and 2) the rate of recidivism is approximately 33 percent of the monthly certifications.

Although the developmentally disabled persons who each month enter the criminal justice system through contact with law enforcement personnel represent a small percentage of the system's entire population, their numbers are sufficient to warrant serious attention and assistance.

RESEARCH METHODS AND FINDINGS

Proposed Research Design

The State of Illinois was divided into the same geographical regions that are used by the Illinois State Department of Mental Health and Developmental Disabilities--Regions 1A, 1B, 2, 3A, 3B, 4, and 5. It was thought that dividing the state in this manner would result in a wider sampling of the Police Training Academies, Chicago Police Department, Cook County Police Department, State Troopers, selected community police departments, as well as police detention facilities located in and around the state. The sample was selected by assigning a number to each town in the state; the numbers were drawn at random, and were therefore completely unpredictable. Police chiefs and other law enforcement officers in the towns selected were contacted via questionnaire.

Throughout the seven regions, 100 questionnaires were mailed to police chiefs and law enforcement officers querying the types of police training received. The purpose was to learn the maximum or minimum training given the law enforcement officers to help them in identifying and handling the developmentally disabled offender, including the mentally retarded, epileptic, or cerebral palsied persons.

Five students from Kennedy King College were assigned to work with a coordinator to plan and develop this portion of the project. These students participated in six planning meetings to develop the research instrument to be used.

Outcome of Proposed Research Design

It is indeed unfortunate that of the questionnaires sent, the sampling return was too small to be of use. Interviews with other persons familiar with the law enforcement system indicate that in other research and evaluation of this system a low rate of response to questionnaires has not been uncommon.

Descriptive Analysis

Through interviews with law enforcement officers, and from information gathered from the Illinois Law Enforcement Commission and the Chicago-Cook County Criminal Justice Commission, an overview of police officers' assessment of their system and their handling of the developmentally disabled offender was accomplished. The material was verified and clarified through appropriate knowledgeable persons who understood Illinois law enforcement.

This material is treated strictly as exploratory, and is considered as pointing up the need to open up the Law Enforcement System so that a more in-depth study can be done.

Random interviews were done by the five students assigned to this part of the project. Though this sampling is small in nature, it does disclose some key factors. All of the police officers interviewed said they had had contact with developmentally disabled offenders. A typical response was, "Some of these offenders who are arrested look as if they are mentally retarded." When asked if they had received help to determine that a person is developmentally disabled, all said no. "We use our own judgment and our partner's judgment." The police officers were asked if they would handle the offenders differently if they knew they were developmentally disabled. All said yes. "If I can recognize that they have a real problem or if someone tells me that, then I would approach it differently." A police commander commented, "Yes, if I can detect if a person is developmentally disabled then I would refer him to another agency." It is interested to note that when asked if they received any training from the Police Academy on the handling of developmentally disabled, all said no. "The only training we get is on the job and what we learn in the street." It must be reemphasized that this is a small sample. Further, however, the police officers were asked what percentage of offenders they thought were developmentally disabled. All checked the category 1 to 20 percent. When asked the number of persons identified as developmentally disabled in the Cook County Department of Corrections, responses indicated 25 percent. This amount may appear small in nature, but when one looks at the magnitude of the problem it is major in scope. Concerning police resources for the developmentally disabled offender, most of the police officers reported they had knowledge of the Circuit Court of Cook County Psychiatric Institute located in the main Police Headquarters of Chicago, but their feelings about the services are most interesting. "That doctor should be fired today and someone who is concerned about the mentally retarded offender should be hired, then maybe when you arrest someone who does have a problem you can feel they were being helped." Another officer said, "The psychiatrist in only there during the day and you have to make an appointment to see him if he is available."

The officers were asked what services were needed to better handle the developmentally disabled offender. All thought better services were needed. "There should be a complete area to process those who are developmentally disabled at all major police stations in the city." Another comment was, "A doctor with a full staff who are trained to work with mentally retarded, epileptics, and cerebral palsy, should be at every headquarters and there should be a staff for at least two shifts."

General Comments Regarding Police Training

Although five attempts had been made to interview personnel of the several police academies, no appointments had been extended nor were interviewers allowed to review the training material that the law enforcement officers received. However, some material had been gathered from outside of Cook County.

An interview with a social worker assigned to the Circuit Court of Cook County Psychiatric Institute indicates, "Police officers in the Chicago area are not trained to detect whether or not the offender has a developmentally disabled problem." Through interviews it was found that in many parts of the seven regions, police training to equip the law enforcement officer to detect mental illness is just beginning; one program was started in 1975, two others began in 1974.

Most of the training personnel believe that training provided was adequate. In the few incidents when review of the training material was possible, most of the material was found to deal with mental illness; very little of it dealt with mental retardation, epilepsy, or cerebral palsy.

CONCLUSIONS

One major point is outstanding in this section on law enforcement and the developmentally disabled offender: The research team assigned to this section found the Illinois Law Enforcement System to be the least responsive as a source of information. However, from the limited material gathered, some conclusions can be drawn.

A more in-depth study needs to be conducted to examine the training of law enforcement officers and to learn what happens to the developmentally disabled person while in the law enforcement system. The researchers noted throughout the study an extreme lack of knowledge and understanding of mentally retarded, epileptic, or cerebral palsied offenders.
A very large percentage of all persons contacted directly or indirectly during the study noted that the group is a persistently problematic portion of the population with whom law enforcement agents become involved in the State of Illinois.

Further, researchers noted that epilepsy victims, because of their medical condition, present a unique challenge to the law enforcement agencies for special kinds of treatment. It is significant that many law enforcement agencies have often confused epilepsy with drug abuse. Treatment for epileptic persons calls for considerable awareness, knowledge, and expertise.

The research team also concluded that once the law enforcement personnel have detected the symptoms of developmental disabilities, the question follows, "What resources are available for positive identification, emergency treatment, or adequate detention when necessary?" If there is not sufficient cause to charge the developmentally disabled person with violations of the law, police personnel are faced with the problem of releasing such persons without adequate referral services available for their support, consultation, or guidance.

It is believed that this research points up a need for community-based programs to meet the needs of the developmentally disabled offender.

III. THE JUDICIAL SYSTEM

INTRODUCTION: THE ILLINOIS JUDICIAL SYSTEM

In this section, the Illinois judicial system is briefly described along with the research design and methodology used in the study. This discussion is followed by the presentation of the findings of the judicial system and offenders with developmental disabilities.

In January 1964, as a result of constitutional amendment, all courts throughout the state of Illinois were unified under one of the most modern court systems in the United States. Under this system, there are three courts--Supreme, Appellate, and Circuit.

The Supreme Court is the highest tribunal in the judicial system. It is composed of seven judges, each serving a ten-year term. From the five judicial districts in which the state is divided, three judges are from district one, which is Cook County, and one judge from each of the other four districts. The primary functions of the Supreme Court include: 1. Development, interpretation, and administration of laws; 2. Establishment of rules for trial procedure; and 3. General administrative authority over all courts.

Next in the judicial structure is the Appellate Court,

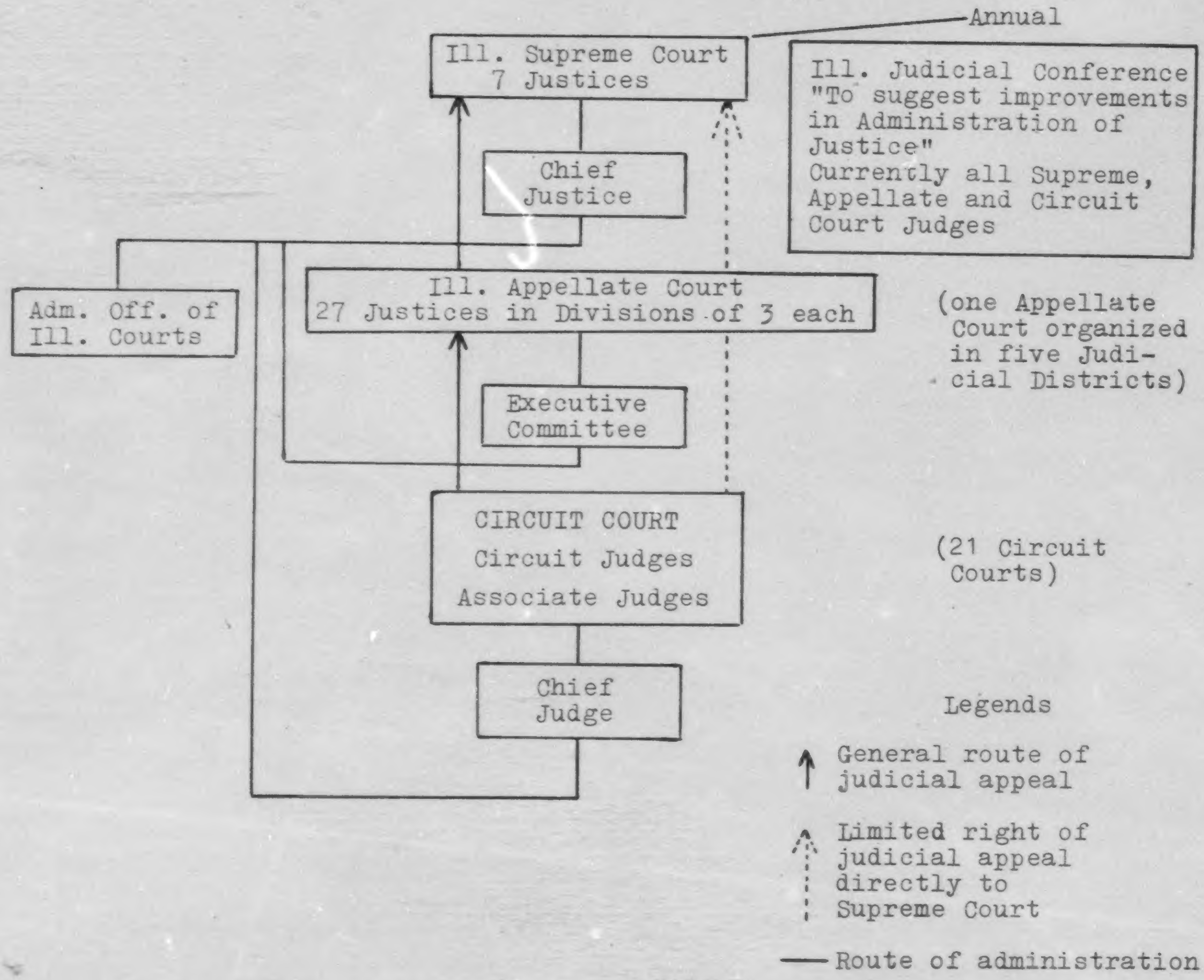
Annual
Ill. Supreme Court
7 Justices
Ill. Judicial Conference
"To suggest improvements in Administration of Justice"
Currently all Supreme, Appellate and Circuit Court Judges
Chief Justice
Adm. Off. of Ill. Courts
Ill. Appellate Court
27 Justices in Divisions of 3 each
(one Appellate Court organized in five Judicial Districts)
Executive Committee
CIRCUIT COURT
Circuit Judges
Associate Judges
(21 Circuit Courts)
Chief Judge
Legends
↑ General route of judicial appeal
⇡ Limited right of judicial appeal directly to Supreme Court
— Route of administration

Figure 1. The Illinois Judicial System

which is the appeal court. This court makes all final judgments on cases of the Circuit Court where appeal has been granted. Exceptions to this are only in cases directly appealable to the Supreme Court or acquitable on merit. This court is composed of 33 judges, 17 from district one (Cook County) and five from each of the other judicial districts.

The Circuit Court is the trial court. It has original jurisdiction over both civil and criminal cases. This court also hears appeals from administrative departments.

Structurally, the state is divided into 21 judicial circuits. From each circuit, a chief justice is elected. In addition to the chief justice there are three categories of judges--circuit and associate judges who serve a six-year term, and magistrates. Magistrates are appointed by circuit judges and the number in each circuit is based on population. The court is divided into two departments--municipal and county. In the municipal department jurisdiction is over relatively less serious offenses, including misdemeanors, criminal and quasi-criminal actions related to money and property where amount does not exceed $15,000. Within the county department there are seven divisions, including the following:

1. Law -- cases for recovery of damages in excess of $14,000
2. Probate -- matters concerning proof of wills and administrative estates of decedents, minors, and incompetents
3. Juvenile -- cases involving dependent and neglected

children, delinquents, and persons charged with contributing to the delinquency or dependency of children

4. Divorce

5. Criminal -- felony cases

6. County -- cases of adoption, inheritances, taxes, election, contest of real estate taxes, municipal organization, and mental health proceedings

7. Chancery -- suits for injunctions, construction of wills and trusts, and mortgage foreclosures

For the purpose of this study, only the Circuit Court, specifically the municipal department and the criminal, juvenile, and mental health unit of the county division is included. Further, the study places particular focus on Cook County. In Cook County the Circuit Court is the largest not only in Illinois, but it is also the largest in the world. See Figure 2 for organization of the Cook County Circuit Court. The organizational table shown is specifically Cook County; however, throughout the state the structural components are basically the same.

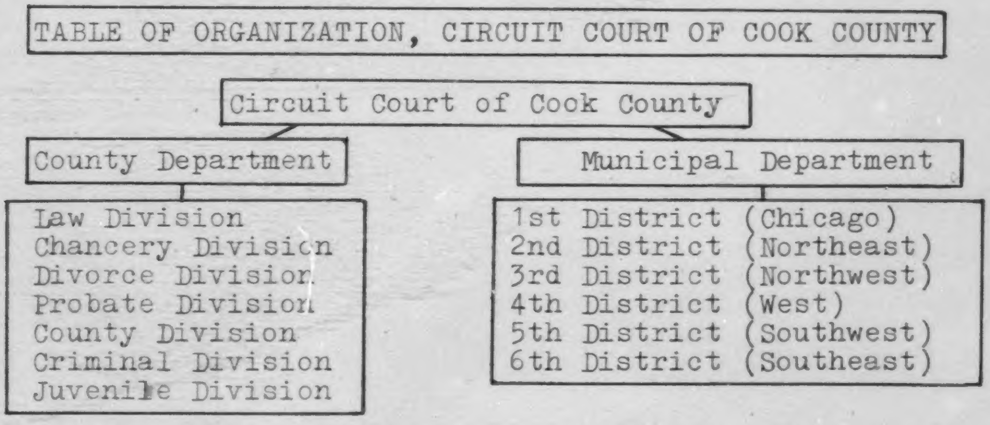
TABLE OF ORGANIZATION, CIRCUIT COURT OF COOK COUNTY
Circuit Court of Cook County
County Department
Municipal Department
Law Division
Chancery Division
Divorce Division
Probate Division
County Division
Criminal Division
Juvenile Division
1st District (Chicago)
2nd District (Northeast)
3rd District (Northwest)
4th District (West)
5th District (Southwest)
6th District (Southeast)

Figure 2. Organization Chart of Circuit Court of Cook County

In Cook County, adult and juvenile clinical diagnostic facilities are an integral part of the judicial system. The Illinois Psychiatric Institute and Clinical Service unit of juvenile division are supportive services in the judicial system. Further, juveniles are also referred to the Illinois Pediatric Institute for evaluations. The basic function of these facilities is to administer examinations, make diagnostic evaluations and in special cases provide short term crisis intervention, and from its diagnostic findings make recommendations to the court. In the juvenile division, the probation unit is also an adjunct of the court. Personnel in this unit become involved with children at the time they become wards of the court. They do social histories and work with children who are not committed to institutions but remain in the community. They also work with children upon release from the institutions.

RESEARCH METHODS AND DESCRIPTION OF SAMPLE

The Sampling Procedure

Three categories of judicial personnel were selected for the sample. They included judges, lawyers, and court diagnostic personnel. Additionally, a few key persons from the administrative office of the court and from an agency working with mental retardation and other developmental disabilities, were included.

Within Cook County, all judges assigned to the criminal and juvenile divisions were selected. A total of 41 judges were identified. The rationale was that these judges would be the ones most likely to handle cases of mentally retarded defendants who have committed crimes. Outside of Cook County, all elected circuit judges from each of the 21 judicial circuits were selected to be included in the sample. In instances when due to death, expiration of term, or transfer there were fewer than two elected judges, associate judges were substituted.[6] Additionally three judges, one from the fifth and two from the sixth judicial circuits, were referred and included because of the special interest in mentally retarded defendants. A total of 67 judges outside of Cook County were selected for the sample. For the entire state, 108 judges were included.

Both public and private lawyers were included in the sample. Included in the classification of public lawyers were public defenders, district attorneys, and lawyers working in legal aid or other public supported legal programs.

In Cook County, approximately 20 public defenders identified by the director of the Cook County Office of Public Defender were included. Those included were lawyers who more than likely had handled cases of defendants who might have been developmentally disabled.

Using county and state directories and referrals made during interviews, 18 district attorneys were identified and

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6. See Appendix B-2 for the sample distribution of judges from each judicial circuit.

included. The eight public lawyers included were all referred based on their special work related to mentally retarded defenders or their work with legal advocacy programs.

Using the directory of criminal lawyers, 49 criminal lawyers were randomly selected. Additionally 9 private lawyers referred from interviews were also included. Within Cook County, there was a total of 105 lawyers selected for the sample. Thus, the total for the state was 171.

Outside of Cook County, a stratified random sample of lawyers was selected from state directories of county officers, district attorneys, and criminal lawyers. Stratification was based on size of poulation (small, medium, and large size cities) and location of city (east, west, south, and north parts of the state). In the state, excluding Cook County, 66 lawyers were selected, of which 36 were public and 30 were private.

Eight people from Cook County clinical services were selected. All persons included were key administrators of state juvenile or adult clinical diagnostic services. As clinical services are not generally an established unit of the court outside of Cook County, no attempt was made to include in the sample persons performing such services for the downstate courts.

Ten additional questionnaires were sent to the Chief Officer of Juvenile Probation to be distributed to his staff.

Data Collection

From December 1974 to May 1975, data were collected. Two methods of data collection were used--personal interviews and mail questionnaires. Thirty personal interviews were conducted with a selected number of persons from each category of judicial personnel in the sample.

The initial interviews, approximately 20, were exploratory in nature. The primary purpose of these interviews was to obtain 1) general information on the general structure and function of the judicial system; 2) opinions regarding special problems, needs, and services of the disabled offender; and 3) identification of appropriate persons in the system to interview or send mail questionnaires. The second type of interview, ten in total, were follow-up interviews either to administer a questionnaire not returned or to clarify confusing or incomplete information.

A total of 297 mail questionnaires were sent to the range of judicial personnel throughout the state.

Data Analysis

The analysis of the data primarily consisted of frequency distributions and a comparison of percentage differences within and between the different judicial components.

Characteristics of the Respondents

A total of 84 persons comprised the final sample of judicial personnel. Included are: 24 judges, 10 from Cook County and 14 from outside of Cook County; 48 lawyers, of

31 are in public and 17 in private practice, 29 are from Cook County and the remaining 19 from other parts of the state; 8 court services clinical staff, four each from juvenile and adult units, all of whom are in Cook County; and the administrative assistant to Cook County Chief Justice; the Chief Probation Officer of Cook County Juvenile Division, and 2 persons from agencies directly related to mental retardation.

Of the sample, the overwhelming majority are male and Caucasian (93 and 96 percent respectively). Sixty-three percent (51) of the respondents reside in Cook County, another 23 percent in other urban areas throughout the state and 13 percent in rural areas.

Some 57 percent of the judges and lawyers had attended law school within Cook County. Twenty-three percent attended schools out of the state of Illinois, and 20 percent had attended law school in other cities in Illinois. The majority had been graduated from law school between the ages of 24 and 30; of these 59 percent were graduated between the ages of 24 and 26 years. Twenty percent were graduated before their twenty-fourth birthday.

Almost one-half of the respondents had held their present position for five years or less (47 percent) and slightly more than one-fourth between 6 and 10 years of age. Also, 27 percent had held their position eleven years or more with 9 percent (5) having been in their position more than 20 years.

For 62 percent of the judges and lawyers, more than one-half of their practice was devoted to criminal cases. Another 31 percent (19) spent 50 percent or less of their time on criminal cases and the remaining 4 were not involved at all in criminal cases.

The caseload for judges ranged from between 1 and 50 cases per year to over 1,000, with about 59 percent carrying 300 or fewer cases per year. Another 32 percent of the judges have larger caseloads ranging from 301 to 1,000 cases. Two Juvenile Court judges have caseloads between 3,000 and 7,000.

Caseloads for court services based on referral from the court were 2,600 per year for juvenile division, and between 5,000 and 6,000 for adults.

The respondents' previous legal experiences were varied. Almost an equal number had had experience in the following practice areas: private criminal, private civil, and public defense. Thirty-eight percent of the respondents had had experience in prosecutorial work and the combined practice of banking, public utility, and teaching. The remaining 17 had held other court-related jobs. The data on the characteristics of the study sample are presented in Table 1.

TABLE 1

SUMMARY OF THE CHARACTERISTICS OF THE SAMPLE*

	Percent	Number
1. Current Position		
Judge		
Juvenile	8.3	2
Adult	58.3	14
Combined Juvenile and Adult	33.3	8
	99.9	24
Lawyer		
Private	33.0	17
Public (defense)	49.0	22
Public (prosecuting)	18.0	9
	100.0	48
Court Services		
Adult	50.0	4
Juvenile	50.0	4
	100.0	8
Other	100.0	4
2. Sex		
Male	93.0	78
Female	7.0	6
	100.0	84
3. Race		
Caucasian	96.0	73
Black	4.0	3
	100.0	76
4. Residence		
Cook County	63.0	51
Other Urban area	23.0	19
Rural	14.0	11
	100.0	81
5. Location of Law School Attended		
Cook County	57.0	37
Other cities in Illinois	20.0	13
Outside Illinois	23.0	15
	100.0	65

* Data in all categories were not available.

TABLE 1 CONTINUED

6. Age Graduated from Law School

	Percent	Number
23 years and under	20.0	11
24 - 26 years	43.0	24
27 - 30 years	30.0	17
over 30 years	7.0	4
	100.0	56

7. Number of years in Present Occupation

	Percent	Number
Less than one year	9.0	6
1 - 5 years	38.0	24
6 - 10 years	26.0	17
11 - 20 years	18.0	12
over 20 years	9.0	6
	100.0	65

8. Percent of Practice Devoted to Criminal Cases

	Percent	Number
None	7.0	4
1 - 25	16.0	10
26 - 50	15.0	9
51 - 75	11.0	7
76 - 100	51.0	31
	100.0	61

9. Judges' Caseload

	Percent	Number
1 - 100	32.0	7
101 - 300	27.0	6
301 - 500	18.0	4
501 - 1000	14.0	3
Over 1000	9.0	2
	100.0	22

10. Caseload of Court Services

Juvenile - 2600
Adult - 5000 to 6000

11. Previous Legal Experience

	Percent	Number
Judiciary - any level	17.0	11
Private criminal	44.0	28
Private civil	48.0	31
Prosecutorial work	38.0	24
Public defense attorney	50.0	32
Other (banking, public utility, teaching)	38.0	24

MAJOR FINDINGS

This section is devoted to the findings as related to the study's major concerns. Five major divisions are used in the presentation of the findings. They include:

A. The judicial system's experiences with developmentally disabled offenders, including the mentally retarded, severely epileptic and severely cerebral palsied persons.

B. Criteria used to define mental retardation.

C. The identification and screening of developmentally disabled defendants within the judicial system.

D. Mental retardation as a factor in selected aspects of judicial negotiations.

E. Opinions regarding alternatives to prison for disabled defendants.

For each of the five divisions above, the major findings from both interviews and the mailed questionnaire will be presented along with the major problem identified. In the discussion of the findings, general trends among the various components of the judicial systems (judges, lawyers, and court services) within the state and, where appropriate, the differences among the components and between Cook County and the rest of the State will be highlighted.

The Judicial System's Experience with the Developmentally Disabled

In this area an attempt was made to assess whether or not various components in the judicial system had any experience with developmentally disabled persons, defendants, or nondefendants. Specifically in this study, the categories of developmentally disabled persons included primarily mentally retarded and severely epileptic individuals and persons with severe cerebral palsy. Respondents were also asked, based on their knowledge and experience, to give their estimate of the number of defendants who fell into each of the developmentally disabled categories.

An overwhelming majority of the respondents (89 percent) indicated that they had had some experience with mentally retarded persons. Only 11 percent stated that they have never had any experience with this group. In general, although lawyers in Cook County had the most experience with retarded persons, excluding clinical staff, district attorneys in Cook County had the least amount of experience. All of the latter indicated that they had no experience with the retarded persons. However, it must be noted that with this group of lawyers the returns were extremely small, with only three respondents. Therefore, these findings may not be truly reflective of the group. Also over one-quarter of the judges in Cook County indicated that they had not had any experience with mentally retarded persons. The data are presented in Table 2.

With reference to the two remaining categories, epilepsy and cerebral palsy, the vast majority of the respondents, irrespective of position or location, either did not respond or indicated that they did not know of any experiences with persons in the two groups.

TABLE 2

JUDICIAL PERSONNEL EXPERIENCE WITH
MENTALLY RETARDED DEFENDANTS BY CATEGORY AND AREA

	Judges				Lawyers				Clinical Staff	
	Cook County		Outside Cook County		Cook County		Outside Cook County		Cook County	
	Percent	(No.)	Percent	(No.)	Percent	(No.)	Percent	(No.)	Percent	(No.)
Had Experience	71	(5)	79	(11)	85	(23)	84	(16)	100	(7)
Had No Experience	29	(2)	14	(2)	15	(4)	16	(3)	-	-
Totals	100	(7)			100	(27)	100	(19)	100	(7)

The respondents were asked to give an estimate based on their own experiences, of the number of defendants in each of the three types of developmental disabilities. Of those who projected estimates, slightly over one-half (53 percent) stated that between 1 and 5 percent of the defendants are mentally retarded; 21 percent considered between 6 and 10 percent as retarded. Eleven of the respondents (18 percent) estimated that retardates composed less than 1 percent of the defendant population. Estimates from only 5 respondents indicate higher percentages, that is, more than 10 percent as mentally retarded. Of these latter respondents, two were judges outside of Cook County. Eight of the judges and lawyers stated they could not give any estimate. The data are summarized in Figure 3.

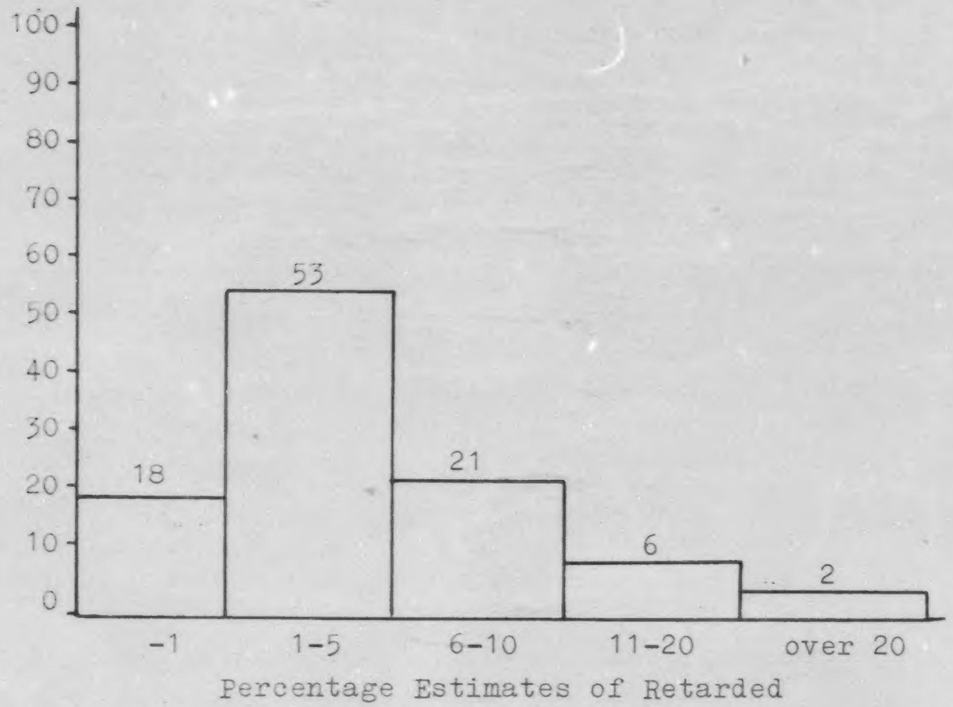

Figure 3. Estimates of Percentage of Defendants Retarded

Although findings in Figure 3 reveal that most of the people in the judicial system have had some experience with mentally retarded persons, they have had only limited exposure to epileptic persons or other with severe cerebral palsy. It is possible either that fewer persons in the latter two groups have committed offenses or that they are not identified when they go through the system. Further study seems to be indicated with reference to the number of severely epileptic and cerebral palsied persons who go through the judicial system.

The range of responses indicated that the defendant population is considered to be from less than one percent to more than 20 percent of mental retardates. However, the majority of the respondents estimated that 1 to 5 percent of the defendants are mentally retarded.

Only a few of the estimates given by judicial personnel on the percent of defendants who are retarded seems to be consistent with data supplied by the court diagnostic centers in Cook County.[7] The centers' general estimates based on cases handled reflected that in only a small number of their cases--less than one percent--was mental retardation detected. These estimates, however, tend to be conservative, because as pointed out repeatedly in the interviews, mentally retarded were more than likely to slip through the system unidentified because of identification and screening problems. These problems will be discussed later in this report.

Criteria Used to Define Mentally Retarded Persons

One of the traditional standardized methods used throughout the country to assess level of intellectual functioning is that of I.Q. scores. While the limitation of this method has been broadly recognized, it continues to be used as a major indicator of retardation. Given the widespread use of I.Q. scores as one of the criteria for defining retarded persons, respondents were asked to indicate the measured I.Q. below which they would consider a person retarded.

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7. Data collected from the Adult Diagnostic Center revealed that of 3,600 cases referred by the courts, mentally retarded persons were detected in approximately 25 cases. Similar information was supplied by the juvenile diagnostic centers, with estimates of less than 1 percent given.

The findings in Figure 4 reveal that the judicial personnel used a wide range of I.Q. scores--from 50 to 90--within which to consider a person to be retarded; 86 percent cited scores clustering between 65 and 80 as the cut-off points; almost one-half (46 percent) selected 70 as the I.Q. score in considering a person to be retarded.

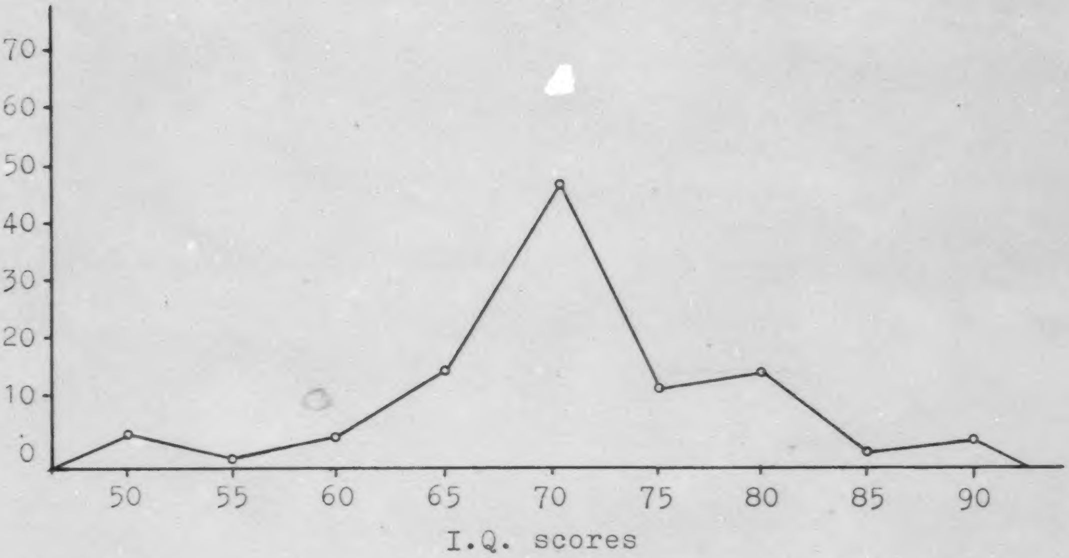

Figure 4. Distribution of I.Q. Scores Below Which Persons Considered To Be Mentally Retarded

Seven of the respondents stated they used I.Q. scores which fell at both extremes of the range, with 3 of them giving scores of 80 and 4 indicating scores below 65. (See Table 3.) Eight of the respondents, 6 lawyers and 2 judges, frankly indicated that they did not know what I.Q. score would define retardation. The remaining 4 respondents, again most lawyers, stated that I.Q. scores were not useful and they

TABLE 3
MEASURED I.Q. USED BY JUDICIAL PERSONNEL TO DEFINE MENTAL RETARDATION

I.Q. Scores	Percent	Number
Above 80	6	3
80	15	8
75	12	6
70	46	24
65	13	7
Below 65	8	4
Totals	100	52

did not rely on them.

Among judicial personnel there appears to be a degree of consistency as to the general I.Q. range within which a person is defined as retarded. Within that range almost one-half would conform to the A.P.A. code of 70 as the measured I.Q. score for defining retardation. From the interviews it became evident that the definition of retardation is often subclassified into three categories--mild, moderate, and severe. Consequently, the above findings may be reflective of the subclassification depending upon individual interpretations. Conversely, the variation in I.Q. scores might also be reflective of the diversity in the general criteria used in determining retardation.

Several of the respondents who are against using I.Q. scores noted two basic problems. One was the inability of the measurement tools to distinguish between cultural and physical retardation. Consequently, poor and minority persons might frequently be labeled retarded because of different cultural life experiences not reflected in the instruments. The second problem was that of stigma given to the defendant classified as retarded, valid or not, without being adjudicated.

The above findings seem to suggest that to ensure uniformity among judicial personnel, there is a need, first, for greater clarification as to how I.Q. scoring is used in determining retardation, and, second, as indicated by the problems cited, the use of caution in the application of I.Q. scores.

Identification and Screening of the Developmentally Disabled

In this section of findings related to the identification and screening of developmentally disabled, seven topics are discussed. They include:

1. The Illinois statute and the mentally retarded defendant
2. The importance of identifying the mentally retarded defendant
3. How judges are made aware of mentally retarded defendants
4. Judicial personnel awareness of and skill in identifying the developmentally disabled defendant
5. Judicial personnel's training related to the developmentally disabled
6. Methods used by judicial personnel to verify mental retardation
7. Availability, type, and adequacy of diagnostic services

General findings in the seven areas will be discussed first, followed by some of the problems identified.

1. The Illinois Statute and the Mentally Retarded Defendant

In the judicial system, the foundation for any decision is based upon the laws and their interpretation. Therefore, in a study of the identification and screening of developmentally disabled defendants in the judicial system, the laws governing the handling of this population must be addressed. In this part of the report, findings are presented which are directly related to the law affecting the developmentally disabled defendant, specifically the mentally retarded.

The Illinois statute code provides some guidelines for the handling of the developmentally disabled in the judicial system. This code, which focused on the fitness of a person to stand trial, was developed to take into consideration persons who because of impaired mental functioning might require special handling in the courts. It should be pointed out that "fitness to stand trial" in the judicial system is a legal definition and not a clinical one. Fitness is legally determined by two criteria: 1) the person's ability to understand the nature of the charge against him; and 2) his ability to cooperate with his counsel. Such handling might entail psychiatric evaluation to determine legal competency, civil commitment proceeding for hospitalization, or need for placement in other special facilities or programs.

A wide range of disabilities is included in the category of developmentally disabled persons. Implicit in such a range are variation in characteristics as well as in needs and problems. In this study, an attempt was made to assess whether judicial personnel thought that Illinois statutes took into account such variations, specifically as applied to the mentally retarded defendant. Respondents were asked whether or not in their opinion the specific law relating to disabled defendants provided a clear distinction between the person who was mentally retarded and the one who was mentally ill. In Table 4 the findings show that a slight majority of the persons in the judicial system were of the opinion that the Illinois law seldom, if ever, provided a clear distinction between mental retardation and mental illness. Lawyers in Cook County more frequently than any other group supported this position (75 percent). They were followed by lawyers,

TABLE 4
EXTENT ILLINOIS STATUTE DISTINGUISHES
BETWEEN MENTAL RETARDATION AND MENTAL ILLNESS
(By Area and Position)

Judicial Personnel	Never/Seldom		Sometimes		Frequently		Totals	
	%	(No.)	%	(No.)	%	(No.)	%	(No.)
Cook County								
Judges	17	(1)	50	(3)	33	(2)	100	(6)
Lawyer	75	(18)	17	(4)	8	(2)	100	(24)
Clinical Staff	20	(1)	--	--	80	(4)	100	(5)
Outside Cook County								
Judges	60	(6)	20	(2)	20	(2)	100	(10)
Lawyer	59	(10)	12	(2)	29	(5)	100	(17)
	48	(36)	18	(11)	24	(15)	100	(62)

then judges, outside of Cook County (60 and 59 percent respectively). Almost one-fourth of the respondents, the highest being among clinical staff, indicated that the statute clearly distinguished between the two groups. In this case a higher percentage of the judges in Cook County were of this opinion. The remaining nine respondents stated that only sometimes did they feel the distinction was provided.

Of the several problems identified with reference to the statute, the major one forcuses on the general dissatisfaction with the mental health code. This dissatisfaction revolved around some key issues. Included were commitment proceedings, detention, and bail rights. With reference to the first two, the major concerns were directed at the constitutionality of criteria for commitment--first, that a person who is determined unfit can be hospitalized and committed indefinitely in the institution, frequently longer than the sentence of the crime requires; second, that a person who is unable to stand trial can be detained and denied due process and equal protection.

Currently, however, the Illinois statute is in the process of being revised as a result of the Jackson v. Indiana case. In this case the Supreme Court ruled that a person determined unfit to stand trial could not be held in a hospital longer than the original sentence for the crime, and it specified other requirements related to reevaluation and trial. Because the revisions have not been completed, a state of flux exists, creating a second problem--that of confusion, uncertainty, and lack of knowledge of interim guidelines in terms of the handling of disabled persons including the mentally retarded. This problem is prevalent within as well as outside of the judicial system.

The law, with specific reference to the fitness for trial, can have particular problematic ramifications for the mentally retarded person, especially if the condition is irreversible. A mentally retarded person can be committed to a hospital; but although the court assumes that some form of treatment or rehabilitation program directed toward making the person fit to stand trial will be provided, no such program can be implemented for the retarded person whose condition is irreversible. Conversely, if such a person is released from an institution, the release often implies fitness. He can then be tried, according to the law, when in fact he is unfit to stand trial.

2. The Importance of Identifying the Mentally Retarded Defendant

There was general consensus within the judicial system that it was important for mentally retarded defendants to be identified. Only three persons, one judge and two lawyers, stated that it was not important to identify such persons. The major reasons given for the importance of identifying retarded defendants focused on three issues: 1) alternative to criminal prosecution, 2) alternative to prison, and 3) determination of the sentence. The first two were frequently cited by both judges and lawyers. It was their view that if a person were identified as retarded, the legal question of his "fitness to stand trial" might have to be considered. If for any reason it is suspected that the defendant is unfit to stand trial, the court can order an evaluation. At that point criminal proceedings cease. If the person referred for diagnostic evaluation is found "unfit to stand trial," civil proceedings conducted by the mental health unit of the judicial system for commitment are begun. The determination of fitness therefore becomes important for both lawyer and judge to identify mentally retarded defendants in order to make decisions as to whether the case will be tried as a criminal or civil one. Also, in a civil hearing, decisions dealing with alternatives to prison must be made. Within the juvenile divisions, in particular, stress is placed on alternatives to juvenile delinquency institutions. The general philosophy of the courts in this division is that of working with the child to the extent possible within the range of community-based programs for youth.

With reference to the issues of sentence, many judges and a few lawyers highlighted the importance of having adequate information on the defendant. One judge stated, "Sentencing is one of our most important functions, and to adequately fulfill it we need substantial legal knowledge, complete information about the defendant and an awareness of the resources available." A few lawyers indicated that sentencing alternatives increased as did the possibilities of obtaining a reduced crime and penalty decision if the defendant was retarded.

3. How Judges Are Made Aware of Mentally Retarded Defendants

In assessing the various and primary ways in which a mentally retarded defendant was brought to their attention, judges throughout the state were asked to check as many of the listed sources as were applicable. The sources were defense attorney, prosecuting attorney, the accused, and the family of the accused. These findings are presented in Table 5.

TABLE 5
WAYS MENTALLY RETARDED DEFENDANTS ARE BROUGHT TO THE ATTENTION OF JUDGES BY AREA

Source	Cook County		Outside Cook County		Totals	
	%	(No.)	%	(No.)	%	(No.)
Defense Attorney	78	(7)	57	(8)	62	(15)
Prosecuting Attorney	44	(4)	64	(9)	57	(13)
The Defendant	22	(2)	57	(8)	43	(10)
Defendant's Family	22	(2)	21	(3)	22	(5)
Other	11	(1)	29	(4)	22	(5)

For judges as a whole, more than one-half (62 percent) are made aware of a mentally retarded defendant by the defending attorney, and 57 percent are made aware by the prosecuting attorney. Some of the judges reported having received their information from both defending and prosecuting attorneys. In Cook County, however, slightly more judges are made aware of such defendants by the defending attorney; outside of Cook County the prosecuting attorney more often advised the judges. Forty-three percent of the judges became aware of the defendant's retardation by the accused himself, either through the judge's observation or interrogation. Judges outside of Cook County relied on this method to a greater extent than did the judges within the county, but to the same extent as they themselves had relied on defense attorneys. Of the four sources listed, the family was the source least used by judges to become aware of the mentally retarded defendant. The data show this fact to be true only for those judges outside of Cook County. In Cook County, judges are made aware of retarded defendants equally by the accused and by his family. Presentence examinations, school records, and probation officers' reports are other methods used.

The findings above seem to highlight the key role the attorney plays in the identification process in the courts. If this is the case, it seems important that lawyers have more knowledge of mental retardation.

4. Judicial Personnel Awareness of and Skill in Identifying the Developmentally Disabled Defendant

Earlier findings revealed that the majority of judges and lawyers stated that it was important that mentally retarded defendants be identified in the judicial system. In this section are presented findings related to judicial personnel's assessment of their own and other judicial personnel's awareness of the three categories of developmentally disabled groups in this study; their skill in identifying the mentally retarded defendant in particular is also indicated. Respondents were asked to make assessments in three areas: 1) awareness of the distinction between mental retardation and mental illness; 2) awareness of epilepsy and cerebral palsy; and 3) their skills in identifying mental retardation. Based on categories of never/seldom, sometimes, and frequently, assessments of awareness and skills were made.

In an earlier part of this section, findings were reported based on the participants' assessment of the distinction the state law provided between mental retardation and mental illness. Attention is now given to judicial personnel's awareness of the distinction between mental retardation and mental illness. Almost one-half of the respondents (42 percent) indicated that judicial personnel never or seldom are aware of the distinction. Thirty-six percent indicated that sometimes court officials are aware and 22 percent stated they are frequently aware of the distinction. When the two groups of judges are compared two major differences emerge. A larger percentage of the judges outside Cook County that those within the county view judicial personnel as being less aware of the distinction between mental retardation and mental illness.

However, more Cook County judges (38 percent) see judicial personnel as sometimes being aware of the distinction than did judges (8 percent) in other parts of the state.

A contrast is also found among the lawyers. A majority of the lawyers in Cook County rated judicial personnel low in their awareness of the distinction between mental retardation and mental illness. For this group only one lawyer stated that frequently judicial personnel were aware of the distinction. The converse was true for lawyers outside of Cook County: only three of them felt that judicial personnel never or seldom are aware of the distinction. Most of the lawyers outside of Cook County were of the opinion that sometimes judicial personnel were aware of the distinction.

As reflected by the findings, judges and lawyers generally view differently the awareness of judicial personnel of the distinction between mental retardation and mental illness. According to judges, in general judicial personnel are either not aware of the distinction or are frequently aware of it. Lawyers on the other hand view judicial personnel as being sometimes aware of or having limited awareness of the distinction. The greatest differences are noted between judges and lawyers in Cook County and between judges and lawyers outside Cook County. In Cook County more lawyers stated that judicial personnel are less aware of the distinction than did judges. However, outside Cook County more judges than lawyers stated that judicial personnel are less aware of the distinction. Although the number of respondents in court services was small, only one respondent indicated that judicial personnel are frequently aware of the distinction. The other four responses were equally divided between low and moderate levels of awareness. The data are presented in Table 6.

TABLE 6

JUDICIAL PERSONNEL LEVEL OF AWARENESS OF THE DISTINCTION BETWEEN MENTAL RETARDATION AND MENTAL ILLNESS

(By Area and Position)

Judicial Personnel	Never/Seldom %	(No.)	Sometimes %	(No.)	Frequently %	(No.)	Total %	(No.)
Cook County								
Judges	25.0	(2)	37.5	(3)	37.5	(3)	100	(8)
Lawyers	58.0	(14)	38.0	(9)	4.0	(1)	100	(24)
Clinical Staff	40.0	(2)	40.0	(2)	20.0	(1)	100	(5)
Outside Cook County								
Judges	54.0	(7)	8.0	(1)	38.0	(5)	100	(13)
Lawyers	18.0	(3)	53.0	(9)	29.0	(5)	100	(17)
	42.0	(28)	36.0	(24)	22.0	(15)		(67)

There is less variation in the assessments of judicial personnel's awareness of epilepsy and cerebral palsy. The consistent findings as revealed in Table 7 were that only a few of the respondents believed that judicial personnel had a high degree of awareness of these two groups. When comparisons are made, all but one of the judges in Cook County thought that court officers sometimes were aware of the two types of developmental disabilities, while a majority of the judges in other circuits in the state thought they never or seldom

TABLE 7

JUDICIAL PERSONNEL AWARENESS OF EPILEPSY AND CEREBRAL PALSY

Degree of Awareness	Category of Disability			
	Severe Epilepsy		Severe Cerebral Palsy	
	%	(No.)	%	(No.)
Never/Seldom	43.0	(28)	37.0	(22)
Sometimes	38.5	(25)	45.0	(27)
Frequently	18.5	(12)	18.0	(11)
	100.0	(65)	100.0	(60)

are aware of epilepsy and slightly more than one-quarter indicated the same with reference to cerebral palsy.

Among the lawyers, more outside of Cook County believed that court officers had a greater level of awareness of both groups than did lawyers in Cook County. More than one-half of the Cook County lawyers considered the awareness in the judicial system as being lower as to both epileptic and cerebral palsied persons.

Lawyers in Cook County and judges outside of Cook County tend to be more in agreement in their assessment of the low level of awareness among the judiciary of epilepsy.

In the last area of assessment, that of judges' and lawyers' skills in identifying mental retardation, the majority of the respondents (60 percent) indicated that generally both judges and lawyers could sometimes identify mental retardation.

Only a few of the respondents stated that the judges and lawyers can never, or seldom, identify this population.

Judges outside of Cook County indicated both judges and lawyers have more skill in identifying mental retardates than did judges in Cook County. For judges outside of Cook County, 58 percent in comparison with 33 percent in Cook County, believed judges frequently had skills to identify mental retardates. Similarly, this former group of judges also thought lawyers have more skills than did the latter group (50 percent and 17 percent respectively).

This same pattern emerged among the lawyers. Those outside Cook County felt that both judges and lawyers have more skill in regard to identifying mental retardates than did the lawyers in Cook County. (See Table 8.)

TABLE 8
JUDGES AND LAWYERS SKILL IN IDENTIFYING MENTALLY RETARDED DEFENDANTS

Judicial Personnel	Never/Seldom		Sometimes		Frequently		Total	
	%	(No.)	%	(No.)	%	(No.)	%	(No.)
Judges								
Judges	5	(1)	45	(9)	50	(10)	100	(20)
Lawyers	21	(9)	65	(28)	14	(6)	100	(43)
Clinical	--	--	100	(5)	--	--	100	(5)
Total	15	(10)	62	(42)	23	(16)	100	(68)
Lawyers								
Judges	--	--	59	(13)	41	(9)	100	(22)
Lawyers	16	(7)	58	(25)	26	(11)	100	(43)
Clinical	-	--	100	(5)	--	--	100	(5)
Total	10	(7)	61	(43)	29	(20)	100	(70)

5. Judicial Personnel's Training Related to the Developmentally Disabled

Frequently, the level of awareness and skill can be enhanced as a result of training. Therefore, information was sought to determine whether judicial personnel have had training related to the developmentally disabled persons included in the study, and if trained, the type of such training was also sought.

An examination of the findings showed that of those responding more than one-half (67 percent) had no training in either epilepsy or cerebral palsy (81 and 85 percent respectively). All judges in Cook County and all of the lawyers outside of Cook County indicated they had no training in these two areas. Of the respondents, those in clinical services, as was expected, had more training than had any other group. (See Table 9.)

The type of training related to the developmentally disabled was provided through seminars and conferences. A few of the respondents had had previous courses in college and had previous or current work experience with this population.

In the area of training, the major problem reflected by the data was the limited or lack of knowledge and the limited mechanism for current knowledge inputs. For a majority of judicial personnel this related to developmentally disabled persons in general; to epileptics and persons with severe cerebral palsy in particular. It should be noted that this was the single area with the greatest number not responding.

TABLE 9
JUDICIAL PERSONNEL'S TRAINING RELATED TO THE DEVELOPMENTALLY DISABLED

Categories of Disabled	Categories of Judicial Personnel											
	Judges				Lawyers				Clinical			
	Cook		Non-Cook		Cook		Non-Cook		Cook		Total	
	%	(No.)	%	(No.)	%	(No.)	%	(No.)	%	(No.)	%	(No.)
Mental Retardation												
Training	33	(2)	42	(5)	33	(8)	12	(2)	80	(4)	33	(21)
No training	67	(4)	58	(7)	67	(16)	88	(14)	20	(1)	67	(42)
Total	100	(6)	100	(12)	100	(24)	100	(16)	100	(5)	100	(63)
Epilepsy												
Training	--	--	37	(3)	17	(4)	--	--	60	(3)	19	(10)
No training	100	(1)	66	(5)	83	(19)	100	(15)	40	(2)	81	(42)
Total	100	(1)	100	(8)	100	(23)	100	(15)	100	(5)	100	(52)
Cerebral Palsy												
Training	--	--	37	(3)	8	(2)	--	--	60	(3)	15	(8)
No training	100	(1)	63	(5)	92	(22)	100	(15)	40	(2)	85	(45)
Total	100	(1)	100	(8)	100	(24)	100	(15)	100	(5)	100	(53)

6. Methods Used by Judicial Personnel to Verify Mental Retardation

In an earlier section I.Q. scores were discussed in reference to judicial personnel's defining of mental retardation. In that section brief mention was made of the limitation and problems of using I.Q. scores. In this section a closer examination is made of other methods employed by judicial personnel to verify whether or not a defendant is retarded.

Judicial personnel were asked to check all the various methods that were applicable and to indicate any other method used. Included were psychological and psychiatric examinations, interviews, and observations of the defendants and the defendant's family, school reports, and court attorneys' observations. The data as presented in Table 10, show that an overwhelming majority of judicial personnel (92) percent rely on psychological or psychiatric examinations to verify retardation of the defendant. A vast majority rely on their own interviews and observation of the defendant. School reports rank fourth as a method of verification. For judges the source used least for verification was the court attorneys; only three judges, all outside of Cook County, indicated that source. In addition to the methods listed, one respondent included EEG reports, and another social histories.

When a comparison of judges and lawyers in Cook County and outside Cook County is made, it was found that judges outside of Cook County utilized more varied methods to verify whether a defendant was retarded than did those in Cook County. For judges in Cook County, the primary method used was psychological evaluation. One possible explanation for this finding might be the fact that in Cook County the judges rely more on reports from the court-established diagnostic services, whereas, in most other parts of the state such court services are not an integral part of the courts. Therefore, it is possible that more methods are used in order to obtain as much information as possible for verification.

TABLE 10

METHODS USED TO VERIFY MENTAL RETARDATION

Methods	Judges				Lawyers					
	Cook Co.		Outside Cook Co.		Cook Co.		Outside Cook Co.		Total	
	%	(No.)	%	(No.)	%	(No.)	%	(No.)	%	(No.)
Psychiatric Examination	100	(9)	100	(14)	88	(21)	89	(17)	88	(38)
Defendant	17	(1)	36	(5)	79	(19)	63	(12)	72	(31)
Defendant's Family	--	--	29	(4)	79	(19)	68	(13)	74	(32)
School reports	17	(1)	36	(5)	63	(15)	37	(7)	51	(22)
Defense Attorney	--	--	14	(2)						
Prosecuting Attorney	--	--	7	(1)						
Other	22	(2)								
	N = 9		N = 14		N = 24		N = 19		N = 43	

Among the lawyers those in Cook County generally tended to utilize all methods of verification, excluding psychological and psychiatric examination, more than did those outside of Cook County. In this group the major difference was in the use of school records. Only a slight difference is found in their use of interviews with defendants and their families. It is very likely that more of the lawyers in the Cook County sample are working with juveniles. If this is the case, then the use of school records would be justified. The data are summarized in Table 10.

The above findings reveal that throughout the entire judicial system, the major methods for verifying retardation are the psychological and psychiatric examinations. Implicit in such findings is the importance of adequate and effectively administered and implemented diagnostic services and tools.

7. Availability, Type, and Adequacy of Diagnostic Services

The material presented in this section considers the diagnostic services as related to the evaluation of the developmentally disabled defendant. All the respondents were asked:

1. Whether established diagnostic services existed in the circuit to evaluate the three categories of developmentally disabled persons;
2. Whether the diagnostic services were sufficient to evaluate mentally retarded persons;
3. Whether clinical evaluations were taken into consideration by judges.

Specific information was also obtained from persons in only the adult and juvenile diagnostic units in Cook County. This information included the type of persons their units were equipped to evaluate, the type of evaluative tools used, their assessment of the adequacy of the tool, and the percent of cases referred by the court that are diagnosed as "unfit to stand trial."

Throughout the state, the findings revealed that most of the judicial personnel (87 percent) stated that there are some established forms of diagnostic services available in their circuits to evaluate the mentally retarded persons. Only 13 percent of the respondents indicated that such facilities are not available. More than one-half stated that facilities exist for evaluating epileptic and cerebral palsied persons. There was basically little difference between responses from judges and lawyers in the state. (See Table 11.)

With specific reference to mental retardates, it was found that the majority of the respondents (70 percent) thought diagnostic services sometimes or frequently are sufficient to evaluate such persons. Thirty percent, most of whom are lawyers in Cook County, were of the opposite opinion. They indicated that seldom or never were the services sufficient to do such evaluations.

For the vast majority of judicial personnel (98 percent) diagnostic evaluations provided for the courts were taken into consideration by judges. More than one-half thought the judges frequently took such evaluations into consideration, while the remaining thought judges considered the evaluation only sometimes. These findings are summarized in Tables 11A and 11B.

With specific reference to the assessments of clinical personnel of their services, the following findings are revealed. All clinical staff indicated that their diagnostic unit was equipped to evaluate the emotionally or mentally disturbed and the mentally retarded person. Three of the five respondents indicated that epileptic individuals could be evaluated and only one stated that his unit was equipped to evaluate cerebral palsy victims. Additionally, one person said this center was equipped to perform a range of neurological tests.

TABLE 11

AVAILABILITY OF DIAGNOSTIC SERVICES TO EVALUATE MENTALLY RETARDED, SEVERE EPILEPTICS AND SEVERE CEREBRAL PALSIED

Developmentally Disabled	Service Available		Service Not Available		Total	
	Percent	(No.)	Percent	(No.)	Percent	(No.)
Mentally Retarded	87	(52)	13	(8)	100	(60)
Severe Epileptic	61	(31)	39	(20)	100	(51)
Severe Cerebral Palsied	56	(28)	44	(22)	100	(50)

TABLE 11A

ADEQUACY OF DIAGNOSTIC SERVICES TO EVALUATE THE MENTALLY RETARDED DEFENDANT

Extent of Adequacy	Percent	Number
Never/Seldom	30	19
Sometimes	35	22
Frequently	35	22
Total	100	63

TABLE 11B

EXTENT JUDGES TAKE CLINICAL EVALUATIONS INTO CONSIDERATION

Extent Taken Into Consideration	Percent	Number
Never/Seldom	2	1
Sometimes	37	23
Frequently	61	38
Total	100	62

A range of evaluative methods and tools was used in both adult and juvenile diagnostic centers to determine whether or not a person is retarded. In the juvenile division, psychiatric and psychological examinations, supplemented by the Stanford-Binet, Bender, Rorschach, TAT, and Bellview tests and social histories are used. Clinical examination and social histories, along with the WAIS, Bender-Gestalt, and Stanford-Binet tests are used by the adult center. In the juvenile division, clinical services seem to be more thorough and comprehensive with reference to identifying and screening for retarded persons. Usually, because of school records and other agency reports, the child who is retarded is already identified before he comes into the court.

Only in the adult division were data available on the percentage of the total cases referred by the court that are diagnosed as unfit to stand trial. The two responses, however, reported different estimates; one respondent estimated 1 to 25 percent of the referrals, while the other estimated 25 to 50 percent are diagnosed as "unfit to stand trial." There was, however, consistent agreement among all clinical personnel that only a small fraction of the referrals are diagnosed as retarded, and they also indicated that if retardation is present, it is usually compounded with mental illness or emotional disturbance. Therefore, the primary focus of almost all evaluation done is on mental illness.

In the whole area of diagnostic evaluations and the identification and screening of mentally retarded defendants in the judicial system, a variety of problems was frequently mentioned. Included were the definition of fitness, the referral process, adequate and appropriate diagnostic procedures and tools, detention and denial of bail rights, and stigmatization.

Repeatedly, the problem of "unfitness to stand trial" was cited. For clinical staff, the problem was centered on conflict in different interpretations. The legal definition was reported as narrow and specifically defined as the person's ability to understand the charges against him and his ability to cooperate and communicate with counsel. The clinical definition was given to be broader and based on a range of mental functioning. Consequently, given the conflict, a person whose functioning is impaired may need special treatment, but because he can understand the basics in the legal definition, he can be considered fit to stand trial.

Respondents, particularly those in clinical services and mental health units of the county court, considered the referral procedure as problematic. It was stated that usually referrals are based on a defendant's mental problems and not based on suspicion of retardation. As a result, the major emphasis is placed on the screening for mental illness in the evaluation process. Consequently, many persons may in fact be retarded but are never identified as such. Clinical staff also expressed concern over the rising crime rates and the fact that referrals are remaining constant.

Another major problem identified specifically by clinical personnel was the difficulty in making a "good" judgment about mental retardation, if the person is psychotic. Another problem mentioned was the inability of clinical staff to assess and to evaluate special cases, such as a person who is a deaf mute, who also might be mentally ill or retarded.

Some respondents thought that diagnostic services were not adequate in type, availability, or implementation. One major concern expressed was that diagnostic evaluation most often did not have resources to assess adequately mental retardation. In some circuits, diagnostic services are not readily available or are nonexistent. While available in Cook County, it was stated that they were often too haphazardly administered. Also related to a part of the problem was the lack of screening at certain junctures within the criminal justice system, specifically at pretrial hearing and after conviction, prior to assignment to a correctional institution.

In some circuits it was mentioned that the courts did not order evaluations, but that it was left to the discretion of the defense attorney to set up such evaluations as necessary. In another area, the district attorney was primarily responsible for having diagnostic services performed if relevant.

From these responses, it is evident that throughout the state there is variation regarding methods for obtaining evaluation reports. A problem may exist where persons may or may not receive diagnostic evaluation, depending on the discretion of the person responsible.

Several problems were identified as related to the detention process. The first was the length of time persons are detained while awaiting diagnostic evaluation. Such persons, especially in cases involving a misdemeanor, are confined to jail until the examination. Also, of particular concern were detention without a conviction having been made and the denial of bail rights while a defendant is detained awaiting an evaluation.

Another problem concerns persons already committed to hospitals or institutions. This problem is the misplacement of persons who are retained in state facilities, which placement "lumps" them in units established for the mentally ill or emotionally disturbed. The specific concerns expressed by some of the respondents were that such placements were inappropriate, that appropriate screening evaluation was not administered; consequently, services related to the special needs of retarded persons were not provided in such facilities.

The final problem was related to the implication of persons being labeled mentally retarded and as a consequence being stigmatized for life.

Mental Retardation as a Factor in Selected Aspects of Judicial Negotiations

During the court proceedings a variety of considerations can be introduced which affect the negotiations prior to conviction and sentencing. In this study one of the concerns was the extent to which mental retardation could be a consideration related to two judicial negotiation processes. Specifically, they were the use of mental retardation as a defense and the use of plea bargaining in negotiation of a settlement. The two sets of findings below deal with these processes. Opinions were sought as to whether mental retardation as a defense was detrimental to the defendant and whether it was a favorable consideration in plea bargaining.

The opinions expressed indicated that majority of the respondents do not consider mental retardation detrimental as a defense. However, within each group there are variations of opinions. Among judges such a defense is the least detrimental, but among clinical staff it is the most detrimental. Lawyers are almost equally divided in their opinions. The data are summarized in Table 12.

TABLE 12

MENTAL RETARDATION AS A CRIMINAL DEFENSE

Judicial Personnel	Detrimental		Not Detrimental		Total	
	Percent	(No.)	Percent	(No.)	Percent	(No.)
Judges	24	(5)	76	(14)	100	(19)
Lawyers	42	(18)	58	(25)	100	(43)
Clinical Staff	80	(4)	20	(1)	100	(5)
	40	(27)	60	(40)	100	(67)

Of those who considered it detrimental, the major concern expressed dealt with the problem of civil commitment discussed earlier in the report, in which persons determined unfit or incompetent 1) can be confined in hospital indefinitely, 2) can suffer greater deprivation of their liberties as a result of confinement and 3) are tried as incompetent and not for the offense committed.

A second problem expressed related to the protection of the community. Some of the respondents did not favor the use of mental retardation as a defense because of the potential risk to the community in that the accused might be dangerous to himself or others. Of particular importance here was the stress given to the following influential factors: 1) the nature and severity of the offense, 2) the fear and lack of knowledge of the mentally retarded person, 3) the lack of appropriate diagnostic tools used to clearly distinguish between mental retardation and mental illness, and 4) the defendant's use of such defense to avoid a jail sentence.

Again, potential stigmatization of the person and the consequences such stigmatization might have on the person's future life, especially as related to juveniles, was the other problem noted.

Closely related to the above discussion is the use of plea bargaining when mental retardation is suspected or established.[8]

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[8] Plea bargaining is the process whereby defense and prosecutor, through negotiation, work out an agreeable settlement regarding a case outside of the court.

Responses to whether a defense of mental retardation is a favorable consideration in plea bargaining revealed that a vast majority (74 percent) indicated that it could be a favorable consideration. However, of this group only 16 percent, all of whom are lawyers, indicated that frequently it was favorable. One-fourth of the respondents did not view plea bargaining as favorable. Basically, there was little difference found on this issue between judicial personnel irrespective of position or location. (See Table 13.)

TABLE 13
FAVORABILITY OF PLEA BARGAINING

Favorability of Plea Bargaining	Percent	Number
Never/seldom	26.2	16
Sometimes	57.4	35
Frequently	16.4	10
Total	100.0	61

One issue cited in this area was that the indigent, and particularly the mentally retarded, defendant is often more susceptible to coercion by law enforcement personnel and prosecutors and that mentally retarded defendants because of their condition, might be at a disadvantage to have the case handled through plea of negotiation as opposed to trial by jury. Also mentioned was the problem of retarded defendants' "slipping" through the system and never being identified when cases are settled before coming to court.

Another problem area, while focused specifically in the civil commitment and proceedings, also related to the entire trial proceedings. It was the opinion of some judicial personnel that many cases heard, especially those involving civil proceedings, involved poor and uneducated persons who could not afford private counsel. Consequently, they had to rely on court-assigned lawyers. The specific problem was that of the quality of defense for this population. Because of overwhelming numbers of such cases, adequate counsel was not available, resulting in inadequate investigations, routine handling of cases, and poor representation of persons. Further, lawyers assigned by the courts were viewed as often being the least experienced and the least competent to represent indigent persons.

Opinions Regarding Alternatives to Prison for Developmentally Disabled Offenders

The extent to which judicial personnel were favorable or unfavorable to alternatives to prison for mentally retarded offenders may have significant consequences for future planning for such persons. The findings related to the opinions about alternative programs are discussed below.

The overwhelming majority (97 percent) of the judicial personnel favor alternatives to prison for mentally retarded offenders. Of this group, 65 percent favor unrestricted alternatives, the remaining 35 percent indicated their preference for alternatives but under certain conditions: 1) the crime committed was not a serious felony or 2) only if the person were severly retarded. The data are presented in Table 14.

TABLE 14
OPINIONS OF ALTERNATIVES TO PRISON
FOR MENTALLY RETARDED DEFENDANTS

Opinions	Percent	Number
Favored alternatives	62.8	44
Favored alternatives if not serious felony	15.7	11
Favored alternative if severely retarded	12.8	9
Favored alternative if not felony and severely retarded	5.7	4
Against alternatives	2.8	2
	99.8	70

With reference to the type of alternative they would select, respondents were almost equally divided between community-based programs or special institutions for the mentally retarded. In addition, several indicated the need for a combination of the community and institutional programs. Others would favor alternatives only if treatment were guaranteed. Yet for others much would depend on the circumstances surrounding the individual case, such as the person, his prognosis, the offense, and the availability of resources. (See Table 15.)

TABLE 15

TYPE OF ALTERNATIVES TO PRISON RECOMMENDED FOR DEVELOPMENTALLY DISABLED PERSONS

Type of Alternative	Percent	Number
Community-based programs	75	45
Special Institutions	78	47
Others	18	11
		N = 60

The issue of existing institutions and pretrial diversion to prison generated considerable concern about problems encountered particularly among those interviewed. First, there is the problem of inadequate facilities for people in general, but for the developmentally disabled persons, the problem is intensified. Particularly for the retarded, there is a lack of those special facilities that provide educational and vocational opportunities and those that protect the retarded offender from possible conflict with other prisoners.

A particular problem area identified with the handling of juvenile cases was that of the number of legal representatives required in court hearing. As many as 95 percent of the cases have three attorneys--a state's attorney whose focus is prosecution, a public defender who represents the parents' interest, and a lawyer representing the child (where parents' and child's interests conflict). An advocacy lawyer (for example, a legal aid attorney) may also be present under special circumstances. Given the number of lawyers and the differing conflicting interests and parties represented, the management of hearing, including the settlement arrived at, frequently becomes difficult and extended over long periods of time.

Among juvenile personnel it was believed that alternative facilities were most needed. It was noted that juveniles with problems are often detained in juvenile homes without treatment because existing facilities are overcrowded. Another problem with this population concerned juveniles who have been sent to alternative programs. In those cases where the child has not adjusted in such programs and needs to be removed, he is likely to get a more severe sentence, upon reappearance in court. Here, "double jeopardy" often results, where the child is punished not only for the offense, but also for his "inability" to adjust to an alternative program.

In gathering data on pretrial diversion, defense lawyers felt strongly that any alternative program must be established with caution so as to protect the right of the offender. It was the opinion of a few lawyers that such programs should be established under the auspices of a defense lawyers' program because of the many legal rights to the individual involved. Under such arrangements lawyers' privileges can be exercised which serve not only to protect the rights of individuals, but also to provide confidentiality--particularly as related to evaluation.

A second problem related to programs alternative to prison was the concern that pressure would be taken away from addressing the legal issue. It was thought that there is a need for legislation that would provide private program client privileges. Currently, records can be subpoenaed by the courts at will.

SUMMARY

Most judicial personnel have had experience with mentally retarded persons but not with epileptic individuals or those with severe cerebral palsy. Based on such experience, the percentage of the defendant population who were considered retarded ranged from less than one percent to greater than 20 percent. The majority of the respondents, however, estimated that between 1 and 5 percent were retarded. Further, in defining retardation using I.Q. scores, the range was between 50 and 90, with most persons' I.Q. scores clustering between 65 and 80.

Many persons in the judicial system, particularly lawyers, did not believe the law provided a clear distinction between mental retardation and mental illness. Clinical staff and judges in Cook County were the two groups in which the high percentage of the respondents thought the law more often that not provided a clear distinction.

In assessing the judicial personnel's own awareness of the distinction between mental retardation and mental illness, variations were found between judges and lawyers and between those inside and outside of Cook County. Judges outside of and those in Cook County more frequently viewed judicial personnel as having limited awareness of the distinction. Lawyers outside of Cook County, followed first by judges in Cook County and next by clinical staff, thought that often or frequently judicial personnel were aware of the distinction. Generally, however, more persons in the judicial system were thought to have limited awareness of the distinction.

Almost all of participants in the study indicated that it was important to identify mentally retarded defendants. Judges state that in court they were more frequently made aware of a retarded defendant by the attorneys--in Cook County by the defense attorney and outside of Cook County by the prosecuting attorney. The interviews and observations of defendants are also important in making judges aware of those defendants who might be retarded.

With reference to judicial personnel's awareness of and skills in identification of developmentally disabled persons, more awareness and skills were evident as related to the mentally retarded. For the other two groups, epileptic and cerebral palsied individuals, the awareness was minimal. Additionally, the amount of training that judges and lawyers had related to the developmentally disabled population was considered limited. Again, this training applies particularly in reference to persons afflicted with epilepsy and cerebral palsy.

A variation of problems was identified as a result of poor statutes. Some of them include the detainment of persons in institutions indefinitely, the denial of bail rights, and the legal definition of "fitness to stand trial."

The above findings seem to indicate a need for 1) greater clarification of the Illinois Statute regarding mentally retarded persons, 2) more programs and training for judicial personnel (particularly attorneys, who, judges indicated, play a key role in alerting them to a retarded defendant) to enhance their understanding of developmentally disabled persons, especially those with epilepsy or cerebral palsy.

In the judicial system the major method used for verifying a defendant's retardation is the diagnostic evaluation, psychological or psychiatric; other methods include school reports and interviews with the defendant or his family. Such extensive reliance on the diagnostic evaluation in the verification process points up the critical need that the services be available and adequate.

Throughout the state diagnostic services were available and viewed as adequate in most judicial circuits. This was particularly the case for evaluating the mentally retarded offender. However, in some rural areas diagnostic services were limited or not available. There was general agreement throughout the judicial system that diagnostic evaluations were taken into consideration by judges.

In Cook County, clinical staff viewed their services as adequate. The diagnostic services for juveniles appeared to be more comprehensive and more thoroughly administered. Both units also used a variety of diagnostic tools to evaluate persons. However, in the adult unit, one key finding was that their diagnostic services are focused primarily on evaluating the mentally ill persons. Such a finding would raise the question of the adequacy of screening other developmentally disabled persons. Major concerns of clinical staff were the conflict between the legal and clinical definitions of fitness, the referral process, and the ability to assess accurately mental retardation.

In the legal negotiations, the findings revealed that generally among judges and lawyers, mental retardation as a criminal defense was not detrimental. This view is, however, not supported by clinical staff. Those who questioned such a defense were concerned with the problems related to a range of issues, including: 1) confinement of persons in hospitals indefinitely, 2) the deprivation of the person's liberties as a result of such confinement, 3) adequate protection of the community from crimes, and 4) labeling and stigmatization of the person.

For a majority of the respondents, the use of plea bargaining is viewed as a favorable consideration in negotiating for a settlement in cases involving mentally retarded offenders. There were, however, several potential problem areas identified. These generally related to the coercion that could be used with defendants who are less sophisticated, the possible lack of detection of retardates, and the poor quality of defense because of heavy caseloads of public defense lawyers and inexperienced lawyers.

The final set of findings dealt with opinions of the respondents regarding alternatives to prison for developmentally disabled offenders. The overwhelming majority were in favor of some alternatives--some unconditionally, others only in cases where the crime was not a serious felony or the person was severely retarded or disabled.

With reference to the type of alternative suggested, support was divided equally between community-based programs and special institutions. For many the decision to use an alternative was contingent upon the circumstances surrounding the individual case such as the person, his prognosis, the offense, and the availability of resources.

IV. THE CORRECTIONAL SYSTEM

INTRODUCTION: THE ILLINOIS CORRECTIONAL SYSTEM

Only recently in the United States has any degree of attention been focused on the problems or treatment of the mentally retarded offender in the criminal justice system. Prior to 1963, very little data were available about the mentally retarded offender in the correctional institutions of the United States. In that year, a comprehensive study of this problem was made by Drs. Bertram Brown and Thomas F. Courtless in a survey of all penal and correctional institutions in the United States.[9]

The present study seeks to explore this problem in the State of Illinois. This section of the report addresses itself to one component of the Illinois criminal justice system--the correctional system.

The correctional system in Illinois is composed of seven institutions serving adult felons, two training schools for juvenile offenders, and ten forestry camps and schools for juveniles. There are three diagnostic and reception centers: two serving adults (one in northern Illinois, and

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9. Bertram S. Brown and Thomas F. Courtless, "The Mentally Retarded Offender." Paper prepared for the President's Commission on Law Enforcement and Administration of Justice, Washington, D.C., 1967.

the other at the southern end of the state), and one for juveniles. In addition, there are two other institutions serving adults: the Illinois State Farm (Vandalia) and the State Reformatory for Women (Dwight). These facilities are under the jurisdiction of State Department of Corrections.[10]

Three of the adult institutions began operation before the turn of the century: Joliet Branch (1858); Pontiac (1871), and the Menard Branch (1878). Stateville (new Joliet) and the State Farm at Vandalia began operation in 1920. The reception centers at Joliet and Menard opened in 1934, and the Women's Reformatory opened in 1930. The state's newest institution (Vienna) opened in 1965--this is also the only "minimum" security institution in the state for felons. All others can be classified as "maximum" security institutions, with the exception of Dwight which could be considered a "medium" security institution.

Relative to the juvenile facilities, the Training School for Girls (Geneva) became operative in 1895; the Training School for Boys (St. Charles) opened in 1904. The remaining forestry and school camps for juveniles opened between 1955 and 1965, with the exception of the Valley View School for Boys, the state's newest juvenile facility, which was dedicated in 1971.

Cook County institutions included in the study are the Cook County Jail opened in 1929, the House of Correction (formerly the city jail of Chicago) opened in 1871, and the Women's Division of the Cook County Jail opened in 1973.

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[10] Prior to 1970, all penitentiaries, and juvenile facilities were under the jurisdiction of the State Department of Public Safety.

The operation of the institutions under the jurisdiction of the State Department of Corrections is governed legally by the Illinois Unified Code of Corrections. The Code was enacted into law and signed by the Governor in 1972, becoming effective on January 1, 1973. It is concerned with five major areas: 1) sentencing, 2) community supervision, 3) institutions and institutional management, 4) the organization of probation services, and 5) provisions for juvenile offenders.

Of particular relevance to our survey is the section entitled Institution: Facilities and Programs, and the section on Adult Institution Procedures.[11] This section, while preserving the distinction between institutions for adults and juveniles, allows the Department of Corrections flexibility in allocating its institutional resources to meet existing population and program needs.

The Code calls further for a social evaluation to be made of all committed persons for medical, dental, psychiatric, psychological, and social service treatment.

> A social evaluation shall be made of a committed person's medical, psychological, educational, and vocational condition and history, the circumstances of his offense, and such other information as the Department may determine. The committed person shall be assigned to an institution or facility insofar as practicable in accordance with the social evaluation.[12]

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[11] State of Illinois, Unified Code of Corrections, St. Paul, Minnesota: West Publishing Company. July 1972, Articles #6, #8.

[12] Op. cit., paragraph #1003-8-2.

The Code further provides for transfers to the Department of Mental Health and requires the director to establish uniform procedures for implementation.

> The Department shall cause inquiry and examination at periodic intervals to ascertain whether any person committed to it may be in need of mental treatment, as defined in Section 1-11 of the Mental Health Code of 1967, or is mentally retarded as defined in Section 1-12 of the Mental Health Code of 1967. Mentally retarded and mental retardation refer to subaverage general intellectual functioning generally originating during the developmental period and is associated with the impairment in adaptive behavior.[13]

DATA COLLECTION

The material used and data collected for the correctional component of the study were gathered by 1) the use of a mailed questionnaire, and 2) personal interviews. Both the questionnaire and interview schedules contained mostly open-ended questions in order to secure a wider range of responses. Prior to implementation, both the proposed questionnaire and the interview schedule were pre-tested. As a result, some questions were modified slightly, but in general no major significant change was required in either of the instruments.

The listing of Illinois correctional institutions was obtained from the Directory of Adult and Juvenile Institutions, published yearly by the American Correctional Association. The Directory lists a total of nine adult institutions and thirteen juvenile institutions (training schools and forestry camps) under the jurisdiction of the State Department of Corrections. In addition, there are three adult institutions listed under the jurisdiction of the Cook County Department of Corrections, making a total of twenty-five institutions available for survey.[14]

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[13] Op. cit., paragraph #1003-8-5.

Questionnaires with a cover letter explaining the project were mailed to a total of twenty-two institutions.[15] In addition, personal interviews were conducted with correctional practitioners on a selected basis. Persons interviewed were chosen because of their knowledge of and experience with the correctional system; they represented a broad spectrum of those employed in the correctional field, that is, administrators, probation and parole officers, medical personnel, correctional officers, and so forth.

Information solicited through questionnaires and personal interviews dealt with the following major areas of concern: 1) a quantitative assessment of the scope of the problem at the institutional level (percentage of total population of mentally retarded), 2) the quantity of programs and services provided at the institutional level, 3) the availability of special programs for the mentally retarded, 4) methods used to identify the mentally retarded offender in the system, and 5) a personal assessment (opinion) as to the general effectiveness of the correctional system to meet and serve adequately the needs of the developmentally disabled offender.

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[14] The U.S. Penitentiary at Marion, Illinois, was also included bringing the total to twenty-six. Information received is not included in the analysis as this report is concerned primarily with state facilities.

[15] Four institutions were not included as their average daily populations were fifty or less.

In addition to the questionnaires and personal interviews, other documents, such as annual reports and statistical summaries, were obtained and studied when considered necessary for the purpose of obtaining a broader data base from which to proceed.

CHARACTERISTICS OF THE STUDY POPULATION

As of December 1974, slightly more than 6,500 individuals were incarcerated in adult institutions under the jurisdiction of the State Department of Corrections. Juvenile institutions showed an average daily population of 472 in the training schools, 114 in the forestry camps, and 298 in special schools.

The Joliet and Stateville Branches of the adult system account for 43 percent of the adult population, while the Geneva and St. Charles Training Schools account for 61 percent of the state's juvenile population.[16]

The Cook County Jail maintains an average daily population of approximately 2,000 with generally 10 to 15 percent of those persons being actually sentenced to the institution. Approximately 85 percent of the jail's population are being detained, that is, awaiting trial, hearings on parole violations, transportation to other institutions following sentencing, and so forth.

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[16] State of Illinois, Department of Corrections, Juvenile Division, Semi-Annual Statistical Summary, 7-1-74 through 12-31-74 inclusive.

State adult and juvenile institutions have a population that is approximately 65 percent black. The median age for admission for adult offenders is 28.5 years and for juveniles, 15.5 years. The average adult offender will serve from three to five years prior to parole; the average juvenile offender will be under the jurisdiction of the Department for approximately three years (including the period of parole supervision). Figures available from the Joliet-Stateville branches indicate that the average formal educational level for adults is ten years; it is 9.5 years for the juvenile offender.

By far the majority of offenders, both adult and juvenile, are committed to the institutions from Cook County. Offenses are generally against persons (for example, assault, armed robbery) and against property (larceny, burglary).

Cook County institutions appear to be similar in population characteristics to the state facilities. Forty-one percent of the inmates are between the ages of 21 and 30, 65 percent are black, and formal education averages 10 to 11 years. As indicated above for the state, offenses in the county are primarily against persons or property.

RESULTS OF QUESTIONNAIRES

Following the pre-test, a total of 22 questionnaires with transmittal letters were mailed to the penal and correctional institutions under the jurisdiction of the State and Cook County. A return of 59 percent was obtained (13 out of 22).

Copies of the questionnaire and letter of transmittal plus a listing of the various institutions to which it was mailed can be found in Appendix C.

Using the institutional populations reported by the respondents as of January 1, 1975, the analysis is based on a total institutional population (adult and juvenile) of 6,246 (5,903 males and 343 females). Slightly more than one-third (34.8 percent) of the total population shown above were incarcerated in institutions under the jurisdiction of the Cook County Department of Corrections. The specific population breakdown by individual reporting institutions is shown in Table 16.

TABLE 16

POPULATIONS OF REPORTING INSTITUTIONS AS OF 1/1/75

Institution	Male	Female	
House of Correction	1,986**		
Menard	1,474		
Pontiac	931		
Vandalia	674		
Joliet Reception Center	396		
Valley View	227		
Women's Division (CCJ)		195**	
Geneva	61	48	
DuPage	51		
Kankakee	48		
Reformatory for Women	35	100	
Pere Marquette	20		
Subtotal	5,903	343	
Total (All reporting institutions)			6,246

**Indicates population of institutions reporting under jurisdiction of the Cook County Department of Corrections. Total population is 2,181; representing thirty-five (34.8) percent of institutional group studied.

A general analysis of selected questionnaire responses is shown below:

"Does your institution routinely administer a testing program for all inmates upon admission?"

	Adult Institutions	Juvenile Institutions
Yes	6	4
No	2	1

Seventy-seven percent of all reporting institutions indicated testing programs upon admission.[17] Testing in general in all adult institutions (both state and county) involved the use of standard test batteries, such as Revised Beta Intelligence Test, Stanford Achievement Test, and Minnesota Multiphasic Personality Inventory. There were, however, some specialized tests given juvenile offenders due to the age of the population; these included Pupil Rating Scales for Learning Disabilities, National Aptitude Test Battery, and Moody Junior and Senior High School Personality Inventory.

The Cook County Department of Correction operates a Diagnostic and Reception Center on the grounds of the House of Correction (Division #2). Population figures received from the institution indicate that as of January 1, 1975, approximately one out of every three admissions were tested upon admission.[18]

The situation at the Juvenile Court of Cook County regarding testing reveals that an extremely small percentage of those

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17. Testing for the Illinois Department of Corrections is done at Joliet and Menard for adult offenders; the testing of juvenile offenders is done at St. Charles.

18. Figures are based on data received from the House of Correction and Women's Division of Cook County Jail only.

referred to the Court are routinely tested. As of December 1974, a total of 26,211 delinquency petitions had been filed for adjudication. Of this number, only 2,724 (10.4 percent) were referred to the Clinical Services Department for psychological or psychiatric evaluation. It should be noted that a petition alleging mental retardation has not been filed in the Juvenile Court since 1971.[19] Court personnel indicate that most juveniles who are mentally retarded have already been identified by schools, community agencies, mental health clinics, and the like, prior to being referred to the Court. Further, generally testing does not include I.Q. rating unless it is specifically requested by the Court for dispositional purposes.

"What percent of your institutional population possess I.Q.s of 69 and below?"

Adult Institutions	Juvenile Institutions
30 (Cook County)	0
25 (Cook County)	0
20	9
8	0
6	5.5
4	
1.2 N = 12	

For the adult institutions reporting under the jurisdiction of the State Department of Corrections, the range was from 1.2 to 30 percent of the population with I.Q. scores of 69 and below, therefore falling into the definition of mental retardation specified by our survey. Juvenile institutions reflect a range of 0 to 9 percent within the specified range.

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[19] Circuit Court of Cook County, Juvenile Cases Filed, Reinstated, and Adjudicated for the year 1974.

> "What special services or programs does the institution provide for the developmentally disabled (mentally retarded, and those with histories of cerebral palsy or epilepsy)?"

	Adult Institutions	Juvenile Institutions
None	3	2
Yes	5	3

Sixty-one percent of all reporting institutions indicate the provision of special services or programs. The majority of responses indicate that diagnostic testing is utilized. Other types of services indicated included small group instruction, remedial reading, remedial mathematics, vocational counseling, medical, psychiatric, psychological referrals, and referrals to outside community agencies.

The most commonly mentioned types of special programs included sheltered workshop settings, individual academic instruction, individual and group counseling. It should be noted, however, that more than one-third (38.5 percent) of all those institutions responding indicate that no special services or programs are available at their respective institutions for the developmentally disabled offenders.

> "Please state briefly your opinion(s) concerning the special problems and needs presented by the mentally retarded offender in the criminal justice system or in correctional institutions."

Responses to the above question from the reporting institutions were quite varied. Some typical examples are as follows:

"Mentally retarded are victimized in the traditional correctional setting." "There is a definite need for specialized remedial programs." "Incarceration should be used as a last resort." "The Department is not equipped to meet the needs of this particular group." "Resources are spread too thin--there is a definite need for a separate facility to house them." "Correctional administrators should have more access to community resources." "There should be provisions for follow-up in the community after release."

In addition to the general comments quoted above, problems of security, safety, and discipline were most often mentioned regarding institutional management of the mentally retarded.

The situation is compounded by the fact that special training for staff is virtually nonexistent. Other than the staffs of the Diagnostic and Reception Centers, the institutions do not have professional personnel with the necessary expertise to handle adequately the problems presented by the mental retardate at the institutional level. It was also indicated that because he is more impressionable, the retardate often is influenced by and learns criminal behavior from the more sophisticated inmates, and they are often used as "scapegoats" in the institutional setting.

As to the special needs and problems presented by the retardate at the institutional level, one administrator reports:

> The mentally retarded should not be placed in traditional correctional facilities. Historically, correctional

> facilities have been understaffed and are not equipped to handle exceptional cases. My experience has shown that the mentally retarded are victimized in the correctional setting. It is my opinion that they should be referred to community based facilities, with correctional placement being reserved as an absolute last resort.[20]

The range of suggested solutions and ways to alleviate or minimize the problems stated above runs from seeking alternatives to incarceration to the use of separate and distinct facilities for providing needed services and programs specifically designed to meet the needs of the retardate.

> "How many years of experience do you have working in the correctional system?"

	Adult	Juvenile
Less than 1	-	-
1 to 2	-	1
3 to 5	2	1
6 to 10	3	2
more than 10 years	3	1

Slightly more than two-thirds (67 percent) of the respondents had at least six years of experience working in the correctional system, with four having over ten years' experience. However, this experience was not confined to wroking with the mentally retarded offender, but with the general institutional population.

Respondents included correctional personnel functioning at all levels of the correctional system, that is, wardens, superintendents, educational administrators, correctional psychologists, sociologists, and counselors. Formal education for the majority of the respondents was at the Masters degree level (M.A., M.S., and M.S.W.) with areas of specialization in the social and behavioral sciences (psychology, sociology, social psychology, and social work).

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[20] Questionnaire received from Menard Branch, Illinois State Penitentiary, Illinois Department of Corrections.

RESULTS OF PERSONAL INTERVIEWS

In addition to the mailed questionnaires, thirty personal interviews were conducted by the project staff with correctional personnel at different levels of the system, including administrators, probation/parole supervisors and officers, correctional officers, medical personnel, and psychologists. Interviews were conducted with personnel of the Illinois Department of Corrections, the Cook County Department of Corrections, and Juvenile Court of Cook County. A summary of selected interview responses follows:

"How is mental retardation defined by (or in) your system?"

Generally, mental retardation is defined by standard intelligence testing upon admission by the respective Diagnostic and Reception Centers. Although several types of intelligence tests, both verbal and nonverbal, are used in the various components of the correctional system,[21] the upper limit of the mentally retarded range averages at around 70 and is therefore within the operational definition of retardation utilized for this survey.

The Unified Code of Corrections defines mentally retarded in the following manner:

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[21] The State Department of Corrections utilizes the Revised Beta Intelligence Test; Cook County uses the Raven Progressive Matrices, a nonverbal intelligence test.

> Mentally retarded and mental retardation mean subaverage general intellectual functioning generally originating during the developmental period and associated with impairment in adaptive behavior reflected in delayed maturation or reduced learning ability or inadequate social adjustment.

Responses to the question, "Does your system have a cooperative program with other agencies for the mentally retarded offender?" indicated that outside program help is limited at best. In most cases, the only resources available to the offender at the institutional level are the Department of Mental Health (during incarceration) and the Department of Vocational Rehabilitation (for training following release).

Interview responses concerning the problems presented by the mentally retarded offender in the correctional setting were consistent with those areas identified by the questionnaire. In the area of institutional security and management, problems of individual safety, discipline, and protection from the more aggressive types of inmates were the most commonly mentioned. One correctional administrator reported:

> Correctional administrators should have access to all available social agencies in the community who would be able to assist the developmentally disabled offender.
>
> Another typical comment indicates that:
>
> Trying to house and program for the developmentally disabled, mentally ill, or with other special problems in the same facility with those not so handicapped in these ways, spreads resources and efforts too thin and creates a disadvantage for both groups.

SUMMARY AND CONCLUSIONS

The national average for mental retardation in any given institutional population has been given as being 10 percent.[22] Our study of the Illinois correctional system indicates an average of 27.5 percent mentally retarded for two of the three adult institutions under the jurisdiction of Cook County.

The need for special services and programs to meet the needs of this group is generally recognized in the correctional system, but the services available are currently limited to diagnostic testing, academic and vocational counseling, and programs of remediation not specifically designed for the developmentally disabled. Such programs, though commendable, have not for the most part been able to minimize the special problems presented by this group in a correctional setting. Some general problem areas indicated are as follows: 1) being taken advantage of--"scapegoating," 2) problems relating to institutional security, that is, safety, discipline, or high degree of suggestibility.

The range of suggested ways to minimize the problems stated above and more adequately to handle the offender runs from seeking alternatives to incarceration, or diversionary programs at the community level, to the use of separate facilities for the provision of services and programs specifically designed for the retardate. Other suggestions include improved identification, provision of special staff or implementation of more intensive staff training programs for existing staff who must deal on a daily basis with the problems presented by the retardate, more programs of remediation conducted in smaller group settings, and the provision of follow-up and other supportive services at the community level for evaluation subsequent to release from the institutions.

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[22] Brown and Courtless, op. cit.

In addition, further research in the area of the developmentally disabled in the correctional setting is needed 1) to provide information as to the alternatives to incarceration that exist, to the treatment that can be made available, to community resources that can be utilized or developed; 2) to seek sources of funding to supplement traditionally limited budgets for professional personnel, facilities, and equipment; and 3) to promote a combined institutional and community effort, the more adequately and effectively to service that group of individuals neglected through the ignorance of correctional personnel as to the magnitude and diversity of their problems.

Admittedly, the findings reported are limited and exploratory in nature and certainly should not be considered as conclusive. The purpose of the study was to seek only opinions and suggestions concerning the nature, scope, and problems presented. It is hoped, however, that the findings will stimulate an awareness and some serious discussion about what at the least must be considered a poor situation left untended too long relative to a group of individuals who have been generally ignored throughout the history of correctional philosophy and practice.

V. CASE STUDIES

INTRODUCTION

This part of the research project involves a discussion of the methodology and major findings of fifty in-depth case study interviews conducted with developmentally disabled persons who are or have been involved in the criminal justice system. The purpose of these interviews was to examine the experiences of the developmentally disabled offender as he comes into contact with the criminal justice system, that is, with the police, the courts, and correctional institutions system.

Effective in 1973, the State Department of Children and Family Services was charged with the responsibility for providing services for not only abused and neglected children, but also for minors in need of supervision. Basically, the Department has the responsibility for provision of program services to all juveniles not under the guardianship of their parents or legal guardian. Prior to the revision in the law, these children became wards of the court and were assigned probation officers who were then primarily responsible for developing a program of services. Often these probation officers referred the children to the State Department of

Children and Family Services. However, the State Department of Children and Family Services was and continues to be ill-prepared in terms of programming for this large responsibility. In addition, an area of major concern are the services provided for the developmentally disabled offender, for example, educational, vocational, recreational and counseling.

In this presentation of the fifty case study interviews, a discussion of the case study interviewing methodology will be followed by a brief description of the data collection process. In addition, a presentation of the characteristics of the population studied will be discussed as well as the major findings of this exploration.

RESEARCH DESIGN

A procedural plan of operation was developed to be used as a guideline by the case study coordinator. This plan encompassed eight categories:

1. Discussion/consultation with various professionals involved in the field of development disabilities regarding the developmentally disabled offender, in order to develop an appropriate outline of information to be obtained during the interview.
2. Development of outline/interviewing schedule for case study interviews.
3. Identification of persons to be interviewed.
4. Development of time table of scheduled appointments for interviews, allowing approximately six weeks for actual interviewing.
5. Conducting pilot interviews.
6. Schedule evaluative consultation with research team

after completing pilot interviews to determine what (if any) revisions should be made in interviewing schedule.

7. Analysis of data.
8. Submission of draft.

In view of the sensitivity of the populations under exploration in this aspect of the project, it was decided that a carefully planned interview schedule (see Appendix D) should be used and that the information could then be broken down into categories by the interviewer after the case study interviews were completed. A pilot study of five cases was conducted and reviewed by the research team to see if any modifications were needed in order to obtain the desired information from the offenders. At that time, two minor suggestions were made and incorporated: 1) that special attention be given to the exact crime the offender was charged with by the criminal justice system, rather than the description of the crime according to offender or his family, and 2) that data be obtained regarding any available special programs designed especially for the developmentally disabled offender. These had to be distinguished from programs the developmentally disabled offender might have been involved in but that were not designed especially for him, for example, community-based programs such as halfway houses or community mental health facilities.

The sample of developmentally disabled offenders chosen for the case studies was determined primarily by availability, as the list of names was supplied by the agencies. Whether or not persons were available to be interviewed influenced the sample rather than an attempt equally to represent the population, for example, in terms of male/female or juvenile/adult dichotomies, although this factor was taken into consideration. The sample was chosen from a list of names supplied by agencies within the criminal justice system and other appropriate state and private agencies. The agencies involved were:

1. Department of Corrections--State of Illinois: One component of the Illinois Criminal Justice System. The correctional system is composed of seven institutions serving adult felons; two training schools for juvenile offenders and ten forestry camps and schools for juveniles.

2. State of Illinois Department of Children and Family Services: Component of the social welfare delivery system of the State of Illinois. Its primary function is to protect the rights of children. It provides multivaried services related to child welfare, such as foster placement, adoptions, and family counseling.

3. State of Illinois Department of Mental Health and Develmental Disabilities: A component of the social welfare delivery system of the State of Illinois. Its primary function is to provide services to those in need of mental health and developmental disabled services in the State of Illinois. These services include psychotherapeutic programs on in-patient and out-patient basis. Community-based programs such as halfway houses, mental health centers, and educational facilities also come under this agency.

4. State of Illinois Court Probation Officers: One component of the Department of Corrections which is governed legally by the Illinois Unified Code of Corrections, effective January 1, 1973. This code covers five areas: 1) sentencing, 2) community supervision, 3) institutions and institutional management, 4) organization of probation services and 5) provisions for juvenile offenders.[23]

5. Volunteers of America Living Center for Girls: Volunteers of America is a religious social welfare organization founded in 1896 by Ballington and Maud Booth. The Living Center for Girls is one of the programs operationalized by this organization which provides services for juvenile

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[23] State of Illinois: Unified Code of Corrections. St. Paul, Minnesota: West Publishing Co. July 1972. Articles 6, 8.

girls, ages 13 to 18, exhibiting Minor in Need of Supervision behavior as defined by the laws of the State of Illinois.

PROBLEMS IN INTERVIEWING RETARDED OFFENDERS

There was some difficulty in finding agencies who had identified the mentally retarded in their offender populations. Most probation officers of courts, correctional institutions, prisons and halfway houses collected no data regarding the mentally retarded. Consequently, when the project staff asked to interview retarded offenders, many agencies replied that it had no listing of the retarded and could not readily identify them. We are grateful to the individual counselors who identified the retarded in their present and former caseloads. Administrators and counselors who searched their files to identify retarded offenders, did so at some risk. Critical attacks on criminal justice agencies are common in the public media. Our informants could easily have chosen to give no data. The subjects are recipients of our gratitude for their voluntary participation in the study. We understand the various pressures, including stigma, that may have influenced some offenders to refrain from participation. For the sake of confidentiality, we have attempted to preserve the anonymity of offenders and agency personnel who identified them.

The retarded often have associated being singled out, identified as different, with punishment. Many of the subjects were understandably cautious in the interview and some were so anxious that they gave little data. "Poor memories," with all its implications as a symptom of panic, conflicting motivation, and brain damage, made interviewing very difficult. It was necessary to read records or interview staff of the agency or relatives of the subjects before the interview in order to probe for the answers to simple questions. Some subjects were fairly open in exploring possible benefits of cooperation. For some the attention of our accepting, nonjudgmental interviewer seemed reward enough, others asked for specific help--to get legal action. We were careful not to make promises that we could not fulfill and we reported the subjects' concerns to their relatives or social workers where appropriate. There were a few subjects who seemed so concerned to get specific services from the interviewer that they had little motivation to follow our agenda, rather than their own. For example, an eighteen-year-old black female listened to a brief introduction on the purpose of our interview and responded, "You're the lady who's going to get me a job." When the worker responded negatively to this, the subject got up angrily, stating, "I'm tired of all of you all asking me all these questions, all you do is lie, you ain't going to get nobody a job."

Finally, some subjects seemed to see us as on the side of the law, and retreated behind a facade of cooperation while maintaining optional distance. To illustrate, a subject asked, "Are you a parole officer?" The interviewer replied, "No, I am a social worker." The interviewer then went on to explain the purpose of the interview. The subject, a black male, age 18, responded favorably to all questions asked in the following manner:

Question: How do you feel about the time you spent inside?

Response: OK, I guess.

Question: What do you mean by OK?

Response: I done wrong and I got caught.

Question: Were there any programs or activities you could become involved in?

Response: What do you mean?

Question: I mean, could you go to school or learn a trade?

Response: Oh, yea. I did'nt have to go to school because I'm eighteen, but I worked in the laundry room and sometimes in the cafeteria.

Question: What did you learn how to do?

Response: I can make pastries ...

Question: How do you feel about the programs you have been involved in?

Response: Those people were trying to help me so I won't do wrong no more.

This information was contradictory to the information obtained from the parole officer, who stated the subject had an extremely poor adjustment record and a hostile attitude. The parole officer seemed to feel that the subject's response was motivated by the fact that he was living in a halfway house with two weeks to go before he came before the Parole Board. The subject had been sent back to incarceration from the halfway house six months before and this was his second attempt to make parole.

Many subjects found it difficult to adhere to our appointment schedule and interviews were failed and rescheduled repeatedly. For example, a 24-year-old married black mother of one child was identified for the study through a direct contact with her probation officer. She came to mind immediately as the probation officer reflected on mentally retarded offenders on suspension. He explained that she was a good example of the mentally retarded person functioning in areas in which she lacked ability, capacity, or even adequate understanding of the nature of her special situation. She agreed to participate but failed to be present for two scheduled appointments at her home and at the office. Her probation officer reported that he found similar problems in interviewing her. She welcomed contacts, was friendly and cooperative on the telephone, but retreated whenever personal contacts were attempted. The probation officer interviewer her. She had been placed on probation for one year for forgery. She had been used by an intellectual superior to forge a signature and to cash a stolen check. She was employed at the time of the offense, not in any special need of money, but seemed to have been easily manipulated. The most damaging fact was that this subject seemed to be working in a situation far beyond her abilities and seemed quite uncomfortable with a high absenteeism rate.

DATA COLLECTION

Information was gathered for this section of the project from December 1974 to May 1975. There were fifty case studies completed. Broken down into categories of adults, juvenile; male, female, the sample was as follows:

Adults:			
	Male	19	
	Female	7	
	Total	26	
Juveniles			
	Male	8	
	Female	16	
	Total	24	
	Adults	26	
	Juveniles	24	
		50	Total population

As indicated in the discussion of research design, the method of data collection was personal interviews with offenders and their families. Interviewers used were social workers, probation officers, parole officers, and program directors.

Interviewers were oriented by the research coordinator before conducting interviews. One orientation session was held with each interviewer. During the orientation session the interview schedule was discussed with the persons to conduct interviews. The objective of the fifty case-study interviews was discussed according to outline in phase one of the research project, and this material was also given to interviewers to read. These people were selected as interviewers because they identified the developmentally disabled offenders on their caseloads or in their programs and came into contact with these persons more readily than the interview coordinator.

An attempt was made to select individuals with different kinds of experiences within the criminal justice system as outlined in the research design. Here again, the deciding factor became what was available among the list of offenders supplied by the agencies. Another factor to be taken into consideration is that although we were unable directly to interview offenders in special correctional institutions--such as the Psychiatric Division at Menard or Illinois Security Hospital at Chester, now known as Chester Mental Health Center--some of the offenders included in the study had been in one or more of these facilities. A breakdown of the differing experiences of the offenders incarcerated within the criminal justice system is included below.

DESCRIPTION OF SUBJECTS

The fifty interviewees, while not a representative sample, is not unlike those groups that have been known to the Criminal Justice System population. Our group is predominantly black and poor. They were distributed throughout the system from pre-trial to after discharge.

The distribution of our subjects in the Criminal Justice System reflects not so much the present reality, in terms of

TABLE 17

STATUS OF THE SUBJECTS INTERVIEWED

Distribution of Subjects	Adults				Juveniles		
	Total	Sub-total	Male	Female	Sub-total	Male	Female
Pre-trial	2	1	1	0	1	1	0
Probation	19	5	3	2	14	2	12
Incarcerated	4	4	4				
Parole	13	7	5	2	6	5	1
Halfway Houses	2	1	1		1	1	
Discharged	4	4	3	1			
High Risk Developmentally Disabled	6	2	1	1	4	2	2
Total	50	24	18	6	26	11	15

our much greater utilization of probation and parole cases, as it might represent the ideal distribution--for those who favor rehabilitation in the community. The community is considered by increasing numbers of experts in the field as a more likely setting for the rehabilitation of offenders than are traditional prisons. In our group, men are incarcerated more frequently than are women or juveniles. In our subject group males were under-represented.

Our subjects correspond with our observations of reality in terms of the relatively small numbers of cases in the pre-trial stage and the few cases in halfway houses. About one-fourth of our subjects are on parole. The study of a few discharged cases was in no way intended to reflect any representation of rehabilitated offenders or lack of recidivism.

They were found to be the most positive in their comments about the helpfulness of their training, as might be expected. About seven out of ten of our subjects are black, two-tenths white and one-tenth other. We had not expected to approximate the realities so closely. The fact that the majority of the project interviewers are black and some of the probation-parole officers are black, may have facilitated our finding and securing the cooperation of our majority racial population.

We found the I.Q. scores were greatly variant regarding tests used, group or individual testing. We interpreted as "borderline," any conflicting scores or unbelievable cases. One Spanish-speaking subject's I.Q. was variously underestimated and we used the interviewer's recommendation that we report a compromise I.Q. score rather than the 28 score someone had offered. The test and testor were usually not reported. In probation and court supervision cases, we occasionally found probation officers had upgraded low I.Q. estimates when original or conflicting scores had been questioned.

Not surprisingly, approximately 75 percent of the clients interviewed (n = 35) grew up in Chicago; 10 percent or 20 percent grew up in rural areas of Illinois. About 98 percent of the cases that reported family composition consisted of two or more children; in more than 50 percent of families there are five children or more.

Of the 50 respondents interviewed, 50 percent of the adults (n = 13) were not employed at the time of the interview;

25 percent of the adults (n = 7) were employed. Their jobs were such that require little or no skill and were poor paying; for example, dishwasher, gardener's helper, cafeteria helper. The most highly paid worker was a factory assembly line worker. The remaining 25 percent of persons interviewed either did not give the information (n = 2) or were institutionalized--in Dixon State School for the Retarded (n = 4). None of the adolescents were employed, although many expressed a desire to obtain employment. Many of the adolescents were involved in training programs. Their main motivation for attendance was the hope that the program would help them find a job.

Findings showed the marital status of interviewees to be as follows: the majority of adults and all of the juveniles were single; four adults were separated; and three divorced. Adults ranged in age from 18 to 54; juveniles ranged in age from 14 to 17 years of age.

The Intelligence Quotient of the sample ranged from 53 to 69. In the interview situation the verbal performance of the developmentally disabled offenders was varied, reflecting the differences in intelligence.

The number of adults involved in vocational programs[24] totaled 17: 5 females and 12 males. Four adult offenders, two female and two male, were involved in educational programs. One adult female was in an organized recreational program, and 12 adults were involved in counseling programs.

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[24] None of the vocational or educational programs of the Department of Corrections or in the communities were specifically designed for the retarded.

Of the adult offenders sampled, one woman was involved in all four areas, and one was involved in three areas, excluding recreation. Two males and two females were involved in counseling only. Two male subjects reported no involvement in any services identified. All women were involved in one or more programs. A total of 10 juveniles, 8 boys and 2 girls, were involved in a vocational program. Two juveniles, 1 male and 1 female, were involved in an educational program. Four females were involved in recreational programs, and 6 females were involved in a counseling program. Of the total juvenile sample, 4 females were involved in both a recreational and counseling program. Unless otherwise indicated, information on males did not indicate program involvement.

During the interviewing of the 24 juveniles, some commonalities of experience and influencing services for juveniles were observed. All of the subjects in the sample had long histories of poor academic performance. Each child interviewed had a history of truancy bringing him to the attention of the courts. In several cases, the children were not in Educable Mentally Handicapped (EMH) classrooms even though the need for such placements was clearly indicated by the children's school records. Only two of the juveniles had been in alternative educational placements provided by the Chicago Board of Education. The law clearly indicates that the school system is responsible for providing an educational plan for these children within the school system or purchasing services for them outside of the system if the child is between the ages of 3 and 21. That the state law has positive intentions regarding this population is not in question. The implementation of the intent of this law, in terms of services provided, however, leaves a wide gap. In November 1974, a paper presented to the Department of Mental Health and Developmental Disabilities[25] suggested the following reasons for the gap between the law and services provided by the educational system:

> 1. There are 1,183 independent boards of education in Illinois; it is truly impossible to negotiate satisfactory agreements with each of them.
>
> 2. Financial capability constrains the majority of districts....
>
> 3. Many districts lack the teacher skills to meet the specific educational needs of the mentally retarded. Larger districts can hire specially trained personnel. Smaller districts are in the majority, and the number of mentally retarded children in their communities may not be sufficient to justify hiring specially trained personnel.
>
> 4. Once school districts assume this educational responsibility, many are reluctant to seek advice and training from the Department of Mental Health and Developmental Disabilities because of professional jealousy.
>
> 5. Some school districts have found ways to bend the law's intent to the detriment of the mentally retarded child ...for example, if they graduate a student they are no longer responsible for his education.
>
> 6. Many parents oppose school district assumption of the educational responsibility for their mentally retarded children. They have little confidence in the educational system for normal children....

In recommendations close attention should be paid to this area which is widely lacking in quality and quantity of services. The school system has been and will continue to be a primary identifying agent of the developmentally disabled. Of special concern in both the adult and juvenile population --but primarily the adult population--are those individuals deemed unfit to stand trial by the criminal justice system and committed to the Department of Correction. These persons are sent primarily to the Psychiatric Division at Menard Prison or the Chester Mental Health Center, formerly known as Illinois Security Hospital. These facilities were designed for the criminally insane, but have served as detention centers for the mentally retarded as well. According to law, when a court assigns a person to the Department of Mental Health and Developmental Disabilities, the Department must concur that there is a need for such services. If the Department does not concur that they have the appropriate services for the offender, he is sent back to the court. This procedure has resulted in the shuffling back and forth between the Department and the court of many offenders at the expense of these persons' rights. The difficulty lies in the fact that the types of services needed for the developmentally disabled offender are not the primary focus of the Psychiatric Division at Menard or the Chester Mental Health Center.

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[25] James F. Ragan, Jr., "Mental Health and Developmental Disabilities in Illinois: An Examination." State of Illinois Department of Mental Health and Developmental Disabilities. November 1974. P.44.

In developing appropriate services for this population, attention must be given to the problem existing between the court and the Department of Health and Developmental Disabilities. In our opinion, a decision must be reached by the Department of Mental Health to provide appropriate services for this population; it is not the court's responsibility.

Other areas creating breakdowns in the services available for the developmentally disabled offender should be identified and examined. The one cited above is only one example of the types of areas that need exploration.

VI. COMMUNITY AGENCIES

RATIONALE FOR COMMUNITY-BASED SERVICES SURVEY

This component of the study was viewed as necessary since various public and private social welfare agencies and such diverse federal and state departments and divisions may provide services aimed at, or appropriate for, the developmentally disabled offender. To what extent such programs and services exist, the nature of these services and their clientele, the impact of these programs on the population of developmentally disabled offenders, and the gaps in service for such offenders were the major foci of this part of the study. Assumptions were made that perhaps sheltered workshops, work activity centers, and day training services may exclude developmentally disabled delinquents and ex-offenders, and that, in a similar manner, residential transitional centers for parolees and other ex-offenders may be unable to accommodate the developmentally disabled person. It was expected that few, if any, residential facilities existed to serve retarded offenders who receive services in their communities outside of the traditional criminal justice system programs such as probation and parole; or that such facilities were available only infrequently and only on an individual basis. Services offered would, in all likelihood, focus on only one of the numerous problems that affect the retarded offender. Thus the retarded offender would not receive the comprehensive services he needs.

CATEGORIES OF COMMUNITY AGENCIES SURVEYED

The major focus of the survey was projected to community-based agencies serving mentall retarded, cerebral palsied, and epileptic persons.

The staff of the Illinois Association for Retarded Citizens (IRAC) served in a consultative capacity in the survey effort and provided the project staff with the names and addresses of the executive directors and unit presidents of their local associations. Because the IARC represents on a statewide basis more than 60 local associations for retarded citizens, cooperation and support from its staff were viewed as essential for the success of this endeavor.

The United Cerebral Palsy Association of Illinois (IUCPA) represents all of the local community cerebral palsy associations on a statewide basis. The state association executive director realized the significance of this study and made a formal request for the cooperation of all local community member units.

The Epilepsy Foundation of Illinois (IEF) which represents all of the local community foundations, responded appropriately to this survey effort.

DATA COLLECTION

A questionnaire was developed for a mail survey of the community agencies, programs, and services identified as serving developmentally disabled offenders. (See Appendix E for copies of research instruments.) The questionnaire was so constructed as to identify potential program resources and unmet program needs, and to obtain suggestions for needed programs and services for developmentally disabled offenders in the respondents' communities.

One hundred questionnaires were sent statewide to known community-based programs identified through their membership with the IARC, IUCPA, and the IEF. The approximate sample distribution was 65 percent to IARC member units, 25 percent to IUCPA member units, and 10 percent to IEF affiliates. In each group questionnaires were sent to both program executives and community program consumer representatives.

In addition, eight in-depth interviews were held with significant program persons working in the community-based agencies with programs specifically designed to aid ex-offenders. These agencies were Project DARE and Project CHALLENGE. Each agency provides a variety of supportive services for ex-offenders in Cook County.

Discussions and interviews were also held with the staff of one of the major state training schools for mentally retarded persons. The discussions and interviews focused around two questions:

1. What are the most frequent types of problems encountered with developmentally disabled offenders?
2. In your opinion, what types of community-based services are most needed for developmentally disabled offenders and ex-offenders?

The interviews obtained were analyzed and will be presented in this portion of the exploratory study.

FINDINGS: QUESTIONNAIRE SURVEY

As previously stated, 100 questionnaires were mailed on a selected basis to community programs with the sample population distribution of approximately 65 percent retardation programs, 25 percent cerebral palsy programs, and 10 percent epilepsy programs. The geographic distribution of those questionnaires returned was 13 from within Cook County and 15 from outside of Cook County, representing a statewide return. Four programs represented communities of less than 25,000 population; 6 programs between 25,000 and 100,000; 12 between 100,000 and 500,000; 6 programs over 500,000 (see Figure 5). It should be noted that in some programs the response indicated that they served both rural and urban populations. Twenty-six programs indicated service to mentally retarded persons, 19 to cerebral palsied persons, 17 to epileptic persons (see Figure 6). This response indicated that several are serving the three disabilities simultaneously while other programs are serving either a mentally retarded, cerebral palsied, or epileptic population singularly. Further, the responses indicated that, in addition to serving the developmentally disabled, some programs were also serving mentally ill persons, emotionally disturbed persons, and multiple handicapped persons.

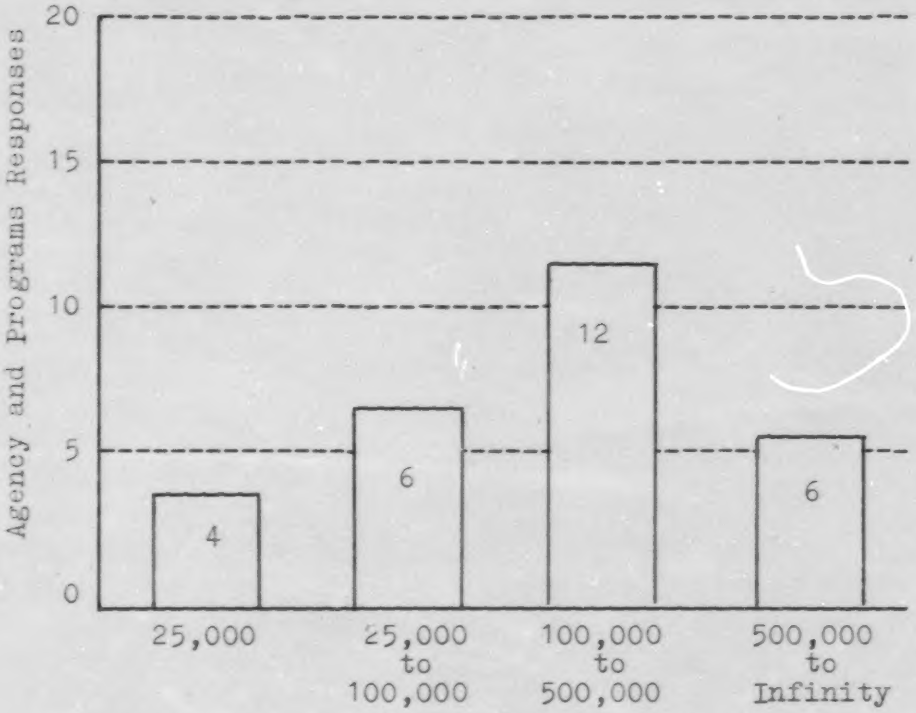

Figure 5. Population served

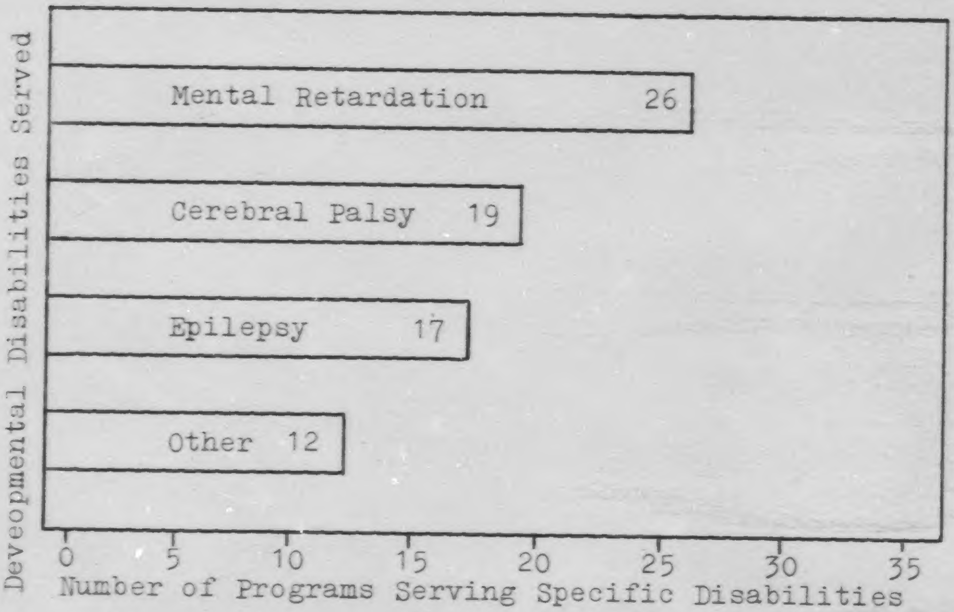

Figure 6. Groups served

In response to the question, "Which of the 16 services are provided by agencies and what ages are being served presently?" it was indicated that 39 percent of the respondents served children below the age of 21, and 75 percent served an adult population over age 21. Some of the respondents indicated that they served a population of youth and adults. Further, it was indicated that services provided included evaluation services by 78 percent of respondents; diagnostic, 50 percent; treatment, 46 percent; daycare, 60 percent; training, 71 percent; education, 60 percent; sheltered employment programs, 66 percent; domiciliary care, 3 percent; special living arrangements, 25 percent; personal care, 39 percent; information and referral, 79 percent; counseling, 75 percent; follow-along, 79; protective, 10 percent; recreational, 78 percent, transportation, 75 percent (see Figure 7).

In several programs it was indicated that service and programs are presently provided in several of the 16 program areas.

In response to the question asking about people currently enrolled in community programs in the categories a) currently incarcerated in release program; b) on parole; c) formerly incarcerated; d) referred by police, courts, station adjustments; e) on probation; f) known to have been involved in delinquent acts or in trouble with police, the following information was received:

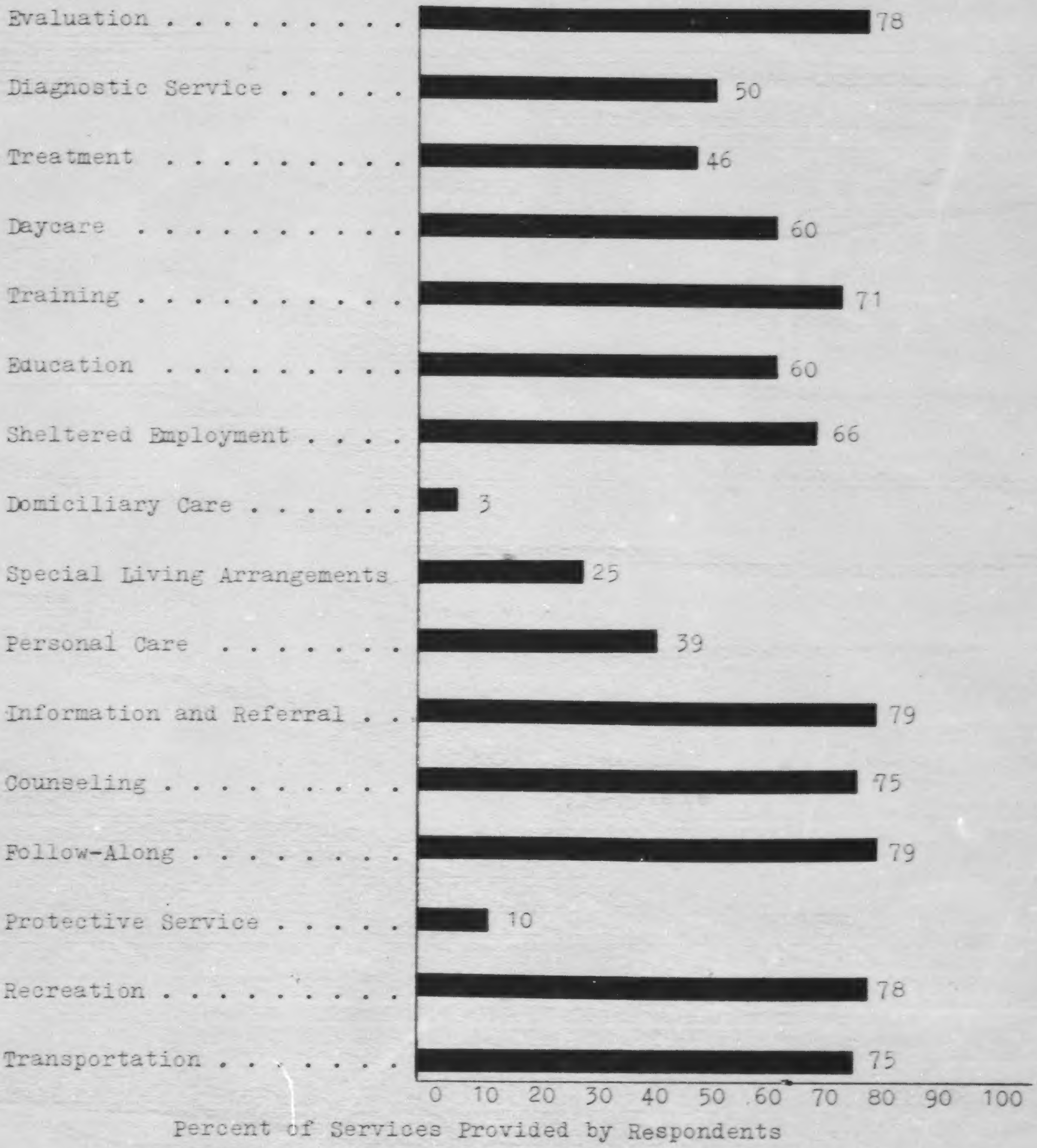

Figure 7. Services provided by respondents

Category for responses	Number of agencies with this population	Number of persons presently enrolled in program
A. Currently incarcerated in release program	1	3
B. On parole	3	3
C. Formerly incarcerated	6	59
D. Referred by police, courts, station adjustments	6	9
E. On probation	5	20
F. Known to have been involved in delinquent acts or in trouble with the police	14	84

This information would indicate that some community agencies and programs are presently having some experiences with developmentally disabled offenders or with those developmentally disabled persons who are at high risk of becoming offenders.

Of those responding to the question, "Have you ever served people in any of these six groups?" the respondents estimated the total number of each group were served in the following manner:

A. Fourteen programs serving mentally retarded persons estimated that they have provided services for approximately 873 persons identified in categories A - F.

B. Six programs serving cerebral palsied estimated that they have provided services for approximately 92 persons identified in categories A - F.

C. Seven programs serving epileptic persons estimated that they have provided services for approximately 75 persons identified in categories A - F.

The respondents answering the question regarding special needs or special programs for developmentally disabled offenders indicated by a 59 percent positive response that they believed that developmentally disabled offenders had special needs and need for special programs. The special needs or programs identified by the respondents were residential services, authority accepting training, early identification, drug education and rehabilitation, and follow-along services.

Seventy-nine percent of the respondents stated their agency and program staffs had no special training for serving or handling developmentally disabled offenders. Of the 21 percent indicating that their staffs had received special training, two agencies said their staffs received the training through work experiences; two agencies reported staff received special training through academic experiences; one agency, through workshops, and one agency, through in-service training programs.

To the question, "What kind of special training for handling developmentally disabled offenders would you recommend for staff in community-based programs like yours?" only three agencies attempted to respond. The distribution of responses were as follows:

A. Academic courses - one agency
B. In-service training - one agency
C. Knowledge of community resources - one agency

The data obtained from the respondents to the question asking, "In your opinion which of the following services are most needed by developmentally disabled offenders?" are presented in the following manner. First, frequency of item selection is presented in Figure 8. Second, ranking on the basis of most frequently chosen first and second place selections. As Figure 8 indicates, 64 percent of the respondents selected evaluation services; 53 percent selected diagnostic services; 46 percent, treatment services; 32 percent, daycare services, 75 percent, training programs; 64 percent, education programs; 75 percent, sheltered employment services; 40 percent, domiciliary care; 82 percent, special living arrangements; 46 percent, personal care training; 57 percent, information and referral services; 78 percent, counseling services; 64 percent, follow-along services; 50 percent, protective services; 68 percent, recreational programs; and 57 percent, transportation services. Ranking on the basis of the most frequent first and second place selections indicated the following priority ratings in rank order.

Rank Order	Program Selected
1	Special living arrangements
2	Evaluation
3	Counseling
4	Diagnostic services
5	Information and referral services
6	Treatment services
7	Sheltered employment
8	Educational programs
9	Follow-along services
10	Recreational programs
11	Training programs
12	Protective services
13	Transportation services
14	Personal care training
15	Domiciliary care
16	Daycare services

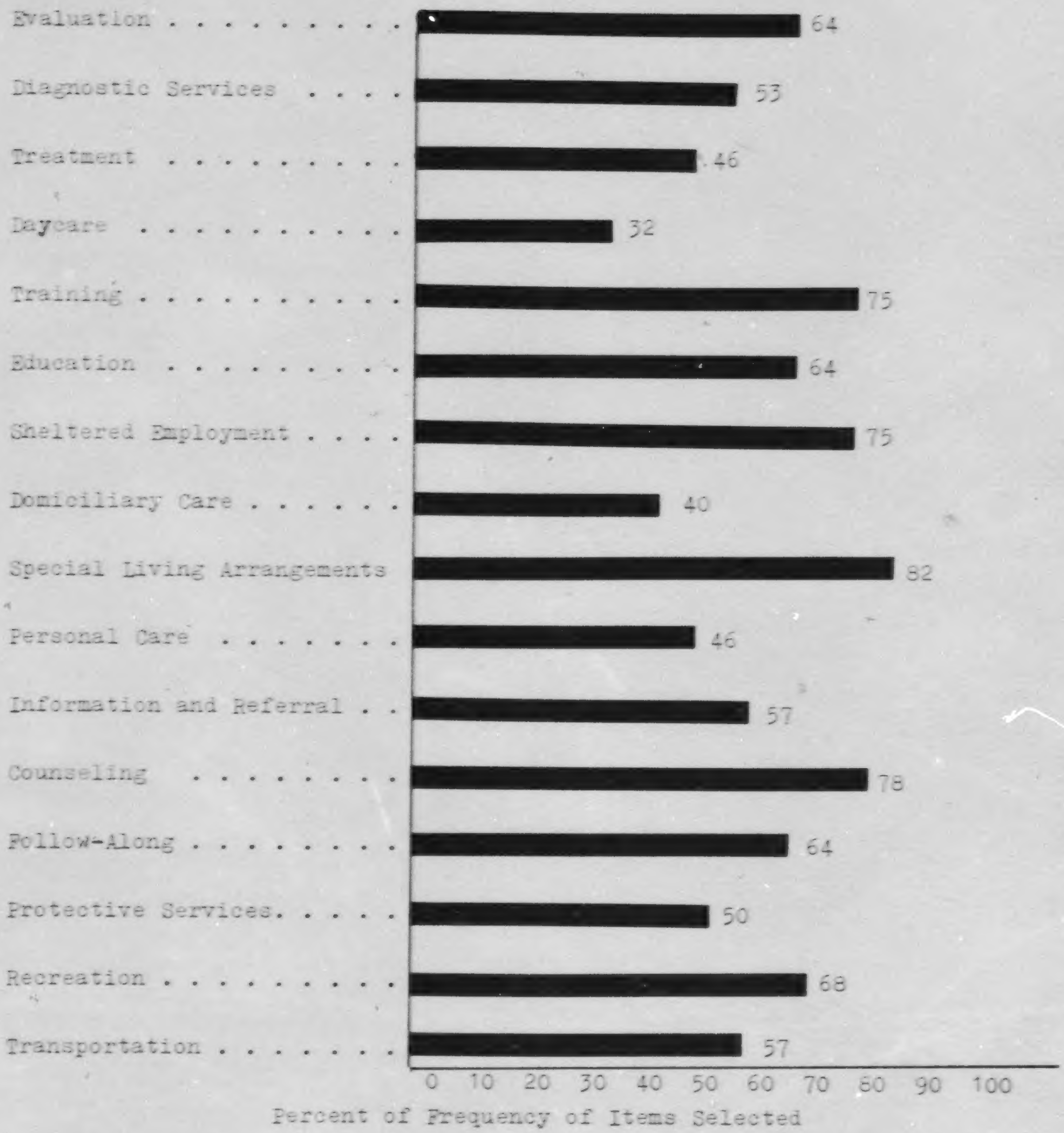

Figure 8. Frequency of selection of most needed services

Using either way of looking at the data, special living arrangements, counseling, evaluation services, and sheltered employment services have high selection ratios with special living arrangements being the first selection under each system.

Responding to the question, "If funds were available, which of the 16 services listed would your agency be interested in providing for developmentally disabled offenders?" 6 agencies selected special living arrangements; 6, counseling services; 6, evaluation services; 8, sheltered employment; 3, follow-along services; 2, recreational programs; 5, information and referral services; 1, personal care programs; 4, training programs, 1, transportation; 1, diagnostic services; 2, protective services, 1, educational programs; and 2 selected all services. This response could indicate that the community agency respondents would tend to be most interested in providing sheltered employment services, special living arrangements, counseling, and evaluation services.

The responses to the question, "In addition to the 16 listed services, are there other specialized services you believe should be provided through community-based programs for developmentally disabled offenders?" were minimal; however, they were:

Services	Agency Responses
Vocational counseling	1
Police training	2
Legal rights community education	2

Services	Agency Responses
Legal services	2
Advocacy services	2
Community living	2
Small group homes	2
Education of courts	2
Community job placement	1
Big brother concept	2

Although there were few responses to the question, the significance of the responses should not be overlooked since this question was designed to elicit future oriented programmatic concepts from the respondents.

FINDINGS: INTERVIEWS

The agency programs DARE and CHALLENGE are community-based programs specifically designed to assist the offender to move back into society's mainstream. The unique feature of the staffing patterns of both programs is the presence of ex-offenders occupying significant positions in the administrative and program staffs.

An examination of the data obtained through interviews indicated the following general conclusions:

- Most interviewees have noticed mentally retarded persons in their program.
- Most interviewees have had limited exposure to mentally retarded persons.
- Most interviewees had received help from the staff psychiatrists to recognize mentally retarded persons.
- Most interviewees indicated that less than 20 percent of their clientele seems to be mentally retarded.

- Most interviewees believed that they handled mentally retarded persons differently.
- No significant specialized programming was available for mentally retarded persons.
- Very little training seems to be available to prepare staff to work with mentally retarded persons.
- Most interviewees thought that their agency needed to offer more services to the mentally retarded persons, such as intensive counseling programs.
- Interviewees recommend that their agency probably should expand its services for mentally retarded persons in the areas of psychotherapy, special vocational training programs, special educational programs, comprehensive referral services, and a better identification system.
- Most interviewees were not satisfied with the present treatment of mentally retarded persons in their agency's program due to the lack of sensitivity of staff persons and an apparent inadequate referral system with other community agencies.
- Most interviewees felt that service to mentally retarded offenders could be improved if more community-agency support were developed, if staff could be better trained, if community vocational training programs could be developed as prison alternatives, if special educational programs and services could be initiated, if group therapy were more readily available, if specialized recreational programs could be developed, and if court personnel could be better trained to relate to the unique needs of the mentally retarded person.

The discussions and interviews connected with the state training school for mentally retarded persons presents a limited view of the perspective of some of the administrative personnel regarding the unique needs of the developmentally disabled offender and the community. An analysis of the data obtained allowed for some general conclusions to be arrived at, and they are:

> The courts, from which the charges evolved and caused the person to be committed, seem usually to be the

largest obstacle in planning for the developmentally disabled offender. This may be the case particularly when the state institution is attempting to clarify the legal status of their patient, attempting to have charges dismissed or hearing held, or desiring to release the patient to community alternatives when the patient is no longer in need of institutionalization.

Due to the move toward the deinstitutionalization of high-functioning retarded persons, it seems that present state institutions are no longer equipped to deal with older, higher-functioning developmentally disabled offenders since the basic institutional program is geared toward a much less capable group.

The most needed community resources seem to be, special living arrangements, community supervision, vocational opportunities and rehabilitative support, with adequate support in these areas being viewed as a reasonable goal.

SUMMARY AND CONCLUSIONS

The community agency program exploratory study phases consisted of 100 questionnaires mailed on a statewide basis to agencies who are affiliates with the state associations of United Cerebral Palsy Association, the Association for Retarded Citizens, and the Epilepsy Foundation. Further, interviews were held with administrative and program personnel of two major programs serving the ex-offender. In addition, discussions and interviews were held with the administrative and program staff of a major state training school that has a significant population of developmentally disabled offenders in residence.

Data were collected and analyzed for the purposes of identifying agency concerns, agency needs, gaps in program services, gaps in personnel needs and in other relevant areas.

The distribution of the data received was almost equally divided between Cook County responses and responses outside Cook County. Four programs represented communities with a population of less than 25,000; 6 of communities with population between 25,000 and 100,000; 12 between 100,000 and 500,000; and 6 over 500,000. Some programs indicated that they served both rural and urban populations. Several programs indicated that they are serving a client population that possesses more than one developmental disability.

It was also indicated that 70 percent or more of the respondents provided training services, follow-along services, recreational services, transportation services, and information and referral services.

Several programs had served, or were presently serving, developmentally disabled persons who were currently incarcerated in release programs, on parole, formerly incarcerated, referred by police or courts, on probation, or who are known to have been in difficulty with the law enforcement officials.

It was indicated by the respondents that there was a need for specialized programs for developmentally disabled offenders, as well as specialized training for staff persons working with developmentally disabled offenders. The respondents further indicated that, in their opinion, the most needed community-based services for developmentally disabled offenders were specialized living arrangements, counseling, evaluation, and sheltered employment, with educational services and information and referral services also ranking high in agency selections.

The interviews with DARE and CHALLENGE staff personnel reveals similar recognized gaps in service, with the state training institution rating specialized living arrangements as being its highest priority.

Models of service should be developed for this specialized population through the encouragement of funding agencies to community-based programs. This encouragement could come in the form of demonstration project grants out of federal Developmental Disabilities Act funds or through state funds within the day training services budget being earmarked for this type of venture. Further the Governor's Advisory and Planning Council needs to explore the avenues of staff development possibilities through the various university and college programs in the state.

Specific, more comprehensive recommendations for this portion of the planning study will be presented in another section.

VII. SUMMARY AND RECOMMENDATIONS

This exploratory study examined the needs and problems of developmentally disabled offenders, particularly the mentally retarded, in the criminal justice system in Illinois. The objectives of the study were:

1. To determine the nature and scope of the problem of the developmentally disabled offenders in the criminal justice system in Illinois.
2. To ascertain the quantity and quality of services and programs--such as, diagnostic, educational, vocational, counseling--available for the developmentally disabled offender.
3. To assess the unmet needs of developmentally disabled offenders while in the criminal justice system, particularly within the correctional system.
4. To make recommendations concerning needed changes in the criminal justice system for more effective and constructive handling of developmentally disabled offenders and to offer suggestions concerning needed community-based programs.

To accomplish these objectives, five substudies were undertaken. They included investigations of the Illinois criminal justice system: the law enforcement system, the judicial system, and the correctional system. In addition, fifty case studies of developmentally disabled offenders were made and community-based programs throughout the state were explored. The results of these empirical investigations are summarized below.

SUMMARY OF FINDINGS

The Law Enforcement System

Since the initial point of contact of developmentally disabled offenders with the criminal justice system is with local police officers, it is important for law enforcement personnel to be able to detect and be sensitive to the special needs of those persons who are mentally retarded, cerebral palsied, or epileptic in order for prompt and responsible action to result. The conclusion of this study is that police officers in Illinois do not have the training to do this, nor are adequate backup diagnostic and referral resources available even when a developmental disability is suspected.

Our attempts to obtain information directly from personnel in the law enforcement system in Illinois were largely unsuccessful. The return rate of questionnaires sent to police chiefs and other law enforcement officers throughout the state was too low to be useful. Information from personal interviews with a small sample of law enforcement officers was supplemented by data from the Illinois Law Enforcement Commission and the Chicago-Cook County Criminal Justice Commission.

All of the law enforcement officers interviewed reported that they had contact with developmentally disabled offenders, but had to rely on their own or their partners' untrained judgment concerning the offender's disability. While these officers were aware of the diagnostic services available at the Circuit Court of Cook County Psychiatric Institute, their opinions about the services actually rendered there were negative. Thus, while these police officers indicated a desire to refer developmentally disabled persons to community agencies for help, they are handicapped by not being trained to detect symptoms of mental retardation, epilepsy, or cerebral palsy. When such detection does occur, the question then becomes, "What resources are available for positive identification, emergency treatment, and adequate detention if necessary?" Unfortunately, adequate referral resources are not available currently. The need for community-based programs to serve this population is acute.

The Judicial System

Extensive and comprehensive data were obtained on the judicial system in Illinois. In addition to a number of personal interviews with judicial personnel, data were collected through the use of mail questionnaires to which a total of 84 persons working with adults and juveniles in Cook County and downstate responded. Respondents included judges, public and private lawyers, court services clinical staff, and administrative personnel.

Results indicated that most judicial personnel had had experience, during the course of their work, with the mentally retarded, but not with the epileptic or cerebral palsied persons. Their estimates of the proportion of the defendant population that is mentally retarded varied widely -- from less than one percent to over 20 percent. One explanation for such variation may be the discrepancies in their definition of retardation which, using I.Q. scores, ranged from tested I.Q.s of 50 to 90.

Although clinical staff and many judges thought the Illinois law provided a clear distinction between mental retardation and mental illness, many others in the judicial system, particularly lawyers, did not think this was the case. Generally, our respondents believed that the judicial personnel themselves were seldom consistently aware of this distinction.

The importance of being able to identify mentally retarded offenders was widely recognized. Judges are usually made aware of the defendant's retardation by defense or prosecuting attorneys. The training lawyers and judges receive in recognizing and understanding the mentally retarded is minimal; it is even more limited regarding epileptic and cerebral palsied persons.

The principal tool for verifying retardation is the diagnostic evaluation, psychological or psychiatric. Because of the judicial system's extensive reliance on these evaluations, the availability and adequacy of state diagnostic services are crucial. Such services were considered adequate in most judicial circuits, but were limited or not available in some rural areas. Major concerns of the clinical staff in Cook County existed in three areas: the ability to assess accurately mental retardation, the referral process, and the conflict between the legal and clinical definitions of fitness.

Some of the problems cited as a result of poor state statutes pertained to detaining persons in institutions indefinitely, denial of bail rights, and the legal definition of "fitness to stand trial." In legal negotiations, mental retardation as a criminal defense was not considered detrimental by judges or lawyers. Clinical staff, however, questioned such a defense, pointing out possible problems, such as indefinite confinement in hospitals and the resulting deprivation of liberties, labeling and stigmatization of the person, and the issue of adequate protection of the community from crimes. Plea bargaining was generally viewed favorably by the judicial personnel in cases involving mentally retarded persons. Potential problems here related to possible coercion of less sophisticated offenders, lack of detection of retardates, and poor quality defense due to the heavy caseloads and inexperience of public defense attorneys.

The overwhelming majority of respondents were in favor or alternatives to prison for developmentally disabled offenders, although many qualified this to mean only when the crime is not a serious felony or when the person is severely retarded or disabled. Support was equally divided between two types of alternatives: community-based programs and special institutions.

The Correctional System

- Questionnaire data on Illinois and Cook County adult and juvenile correctional institutions were obtained on 13 of 22 institutions contacted. The responding institutions have a combined population of over 6,000 incarcerated persons. Ten of these correctional institutions have testing programs for inmates upon admission. Testing is not done routinely, however; for example, approximately one-third of the persons are tested upon admission to the Cook County Department of Correction. Juvenile offenders are tested even less frequently as most of the mentally retarded juveniles have already been identified by schools and other community agencies. Estimates ranged widely among institutions as to the proportion of their populations with I.Q.s of 69 or below; these were from a low of one percent to a high of 30 percent for adult institutions (the highest estimates were for Cook County facilities) and ranged from zero to 9 percent for juvenile institutions.

Two-thirds of the surveyed institutions reported having special services and programs for devlopmentally disabled incarcerants. Services included diagnostic testing, and to a lesser extent, small group instruction, remedial reading and mathematics, vocational counseling, and referrals (medical, psychiatric, psychological, and to outside community agencies). Programs offered were usually sheltered workshops, individual academic instruction, and individual or group counseling.

Their needs of and special problems presented by the mentally retarded in correctional institutions are varied and complex, according to our respondents. Specifically cited were their opinions that the Department of Corrections was not equipped to meet the needs of this group of offenders, that retarded offenders are victimized in the traditional correction setting, that incarceration should be used as a last resort, and that institutional resources are spread too thin. They emphasized the need for specialized remedial programs, separate facilities to house the retarded, more access to community resources, and provisions for follow-up in the community after release. Problems of safety, security, and discipline were mentioned concerning the management of the retarded in these institutions.

With the exception of the staffs of the Diagnostic and Reception Centers, the institutions do not have personnel with the necessary expertise for handling mental retardates. Special staff training to deal with such problems is virtually nonexistent.

Developmentally Disabled Offenders

In order to learn more about and observe firsthand the people most directly concerned, we interviewed a convenience sample of 50 developmentally disabled persons involved, or previously involved, in the criminal justice system. Several state and voluntary agencies cooperated by suggesting the names of potential interviewees. Many agencies, however, had not identified mental retardates in their settings.

As expected, this group of respondents, who had I.Q.s ranging from 53 to 69, were a difficult group from which to obtain information. Their ages ranged from 14 to 17 years for juveniles and 18 to 54 years for adults. Both males and females were represented. The respondents were predominantly black, poor, and single. They were in various stages of the criminal justice system from pre-trial to after discharge; some of the intermediate stages were: on probation, incarcerated, on parole, and living in halfway houses.

At the time of the interview, only one-half of the adults in the sample were employed--all on menial, low paying jobs--and none of the juveniles were working although many wanted to be. Several juveniles were involved in training programs, for which their major motivation seemed to be the hope of job placement. In our sample, more adults than juveniles were involved in vocational, educational, and counseling programs. It should be noted, however, that none of these programs were specifically designed for the retarded.

Community Agencies

The survey of community programs serving the developmentally disabled revealed many different combinations of clientele. Some programs served either mentally retarded, cerebral palsied, or epileptic persons; some served all three groups; and others served some combination of one or more of the developmentally disabled groups together with mentally ill, emotionally disturbed, or multiply handicapped persons. Almost all of the programs responding to our questionnaires served the mentally retarded.

A number of these community agencies serve developmentally disabled offenders or potential offenders, that is, persons known to have been involved in delinquent acts or to be in trouble with the police. However, only one-fifth of these agencies had staff who had received special training in working with this group. The respondents agreed that developmentally disabled offenders have special needs and require special programs. Particularly cited were early identification, drug education and rehabilitation, authority acceptance training, residential programs, and follow-along services. When respondents were asked which of the 16 services generally provided by programs for the developmentally disabled were most needed by these offenders, the most frequent needs identified were special living arrangements, counseling, training, and sheltered employment. Yet, only one-fourth of these agencies provide special living arrangements. The other three services are provided by 75 percent, 71 percent, and 66 percent of the agencies. Apparently such programs are more likely to provide information and referral, follow-along, evaluation, recreation, and transportation -- possibly less expensive services. However, our data show that if funds were available, the services that the responding agencies would most like to provide are sheltered employment, special living arrangements, counseling, and evaluation. Chosen only a little less frequently were information and referral services and training programs. Thus, these agencies say they would like to provide the services most needed by developmentally disabled offenders if adequate funds were available.

RECOMMENDATIONS

This study has identified some of the special needs of developmentally disabled offenders throughout the criminal justice system and has revealed some of the gaps in services provided this group. As a result of this investigation, several recommendations are offered, the most crucial of which is that this preliminary study be followed by a program of research in this important area. Other recommendations flowed from each of the five substudies and are presented separately below.

Law Enforcement

The recommendations on law enforcement are based on information gathered from persons who have understanding and knowledge of the law enforcement system as well as from research data collected:

1. That the Department of Mental Health establish on a pilot basis a community-based mental health center which would be available to law enforcement personnel and equipped to make initial examinations of persons identified by the police for the purpose of determining whether the

individual arrested for a minor violation of the law is developmentally disabled and which would offer correctional program services for such disabled persons in order that they may be diverted from the criminal justice system. Such correctional programs may include, but are not limited to: (a) referral, where necessary, to other mental health programs or agencies specifically equipped to meet the needs of the developmentally disabled person arrested, (b) conduct community programs designed to administer services to such persons and their families, on an emergency basis, and (c) provide follow-up supportive on-going services on an out-patient basis for the person who does not require intensive treatment.

2. That the law enforcement system examine the possibility of zone systems throughout the state where there would be a trained police social worker and a medical staff person to treat the developmentally disabled offender.

3. That the law enforcement training academies reassess their present program and plan to develop a training program in identification and detection of mental retardation, epilepsy, and cerebral palsy.

Judicial System

The recommendations presented include those suggested by participants in this section of the study as well as those based on the researchers' observations and data collection.

1. Although the Illinois Statute relating to the de-

velopmentally disabled persons is being revised, some consideration might be given to:

(a) The development of interim guidelines regarding the handling of disabled defendants.

(b) The development of mechanisms for disseminating such guidelines throughout the judicial system.

2. Given the wide variation among judicial personnel in defining mental retardation, some methods might be developed for standardizing the conceptual and operational definition within the judicial system.

3. The identification and screening process of mental retardation and especially severe epilepsy and cerebral palsy within the state do not seem to be adequately developed for utilization within the judicial system. Therefore, the following recommendations are offered:

(a) Development of improved and unified referral procedures from the courts to diagnostic services.

(b) Development of in-service training and continuing education programs for judicial personnel related to developmentally disabled persons, particularly as related to epilepsy and cerebral palsied victims. One mechanism for such training might be the Illinois Legal Institute for Continuing Education.

(c) The use by the judicial system of existing agencies who work with the developmentally disabled person to provide special diagnostic consultation and evaluation. One such agency might be the Illinois Association for Retarded Citizens.

(d) The incorporation of a legal social worker to work in conjunction with the courts but, specifically with judges, particularly with reference to the handling of special cases.

(e) Implementation of systematic and unified programs for identifying and screening developmentally disabled persons throughout the state.

4. The development of a statewide planning body to explore, plan, and develop pretrial diversion programs. Such a body should consider the specific recommendations of defense lawyers which include provisions for protecting the clients' rights to confidentiality, appropriate treatment program, in-patient and out-patient facilities.

5. The development of special services or programs in existing facilities that provide educational and vocational opportunities as well as protection to mentally retarded and other developmentally disabled defendants.

6. The development of special facilities and treatment programs for persons identified as developmentally disabled who are detained pending trial.

Correctional System

The following recommendations are based on the research team's data collection and knowledge of the correctional system.

1. It is recommended that diagnostic testing in the

Illinois and Cook County Departments of Correction be re-evaluated in order to determine its reliability and validity with reference to the identification of the mental retardate in the respective correctional systems.

2. It is believed that the entire area of special institutional programs in counseling, vocational and academic education, and so forth, should be evaluated to determine how well they actually meet the needs of the mentally retarded incarcerant.

3. Inmate diagnostic classification and assignment procedures should be evaluated with a view toward determining whether these processes identify and best serve the needs and special problems presented by the retardate in the correctional setting.

4. All correctional personnel (administrative, custodial, field services) should be given special training to equip them to be better able to identify and work more effectively with the mental retardate at the institutional level.

5. All available community resources and services, such as, physical health and medical services, mental health services, vocational training and rehabilitation services, and welfare services should be more closely coordinated with existing institutional programs in order to minimize the possibility that the retardate subsequent to release will recidivate.

6. It is recommended that consideration be given to

the provision of diversion programs (alternatives to incarceration) for incoming and presently incarcerated inmates who are mentally retarded.[26]

Case Studies

From the interview data, it appears that there are programs that the developmentally disabled offender can become involved in within the Illinois Criminal Justice System. However, none of the offenders were involved in programs specifically designed for the developmentally disabled offender. Most of the developmentally disabled offenders studied were convicted of crimes of aggression, that is, murder, attemped murder, robbery and assault, suggestion the need for earlier prevention programs in the area of ego support and ego development. There was little continuity of services to community-based programs for the developmentally disabled offenders in terms of follow-up after incarceration to find if that offender who had received services while incarcerated, continued to be served after his release. Therefore, the following recommendations are offered:

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[26] Diversion from the criminal justice system became a popular concept as a result of the President's Commission on Law Enforcement and the Administration of Justice who recommended in 1967 "that early identification and diversion to other community resources of those offenders in need of treatment for whom full criminal disposition does not appear required."

"True" diversion involves the referring of the offender for treatment to agencies and programs outside of the criminal justice system. More commonly, the term "diversion" involves minimizing the offender's involvement in the criminal justice system at any level. The difference can best be stated as being "diversion" before conviction ("true" diversion), and post-conviction remedies. Diversion may occur at any level, that is, following arrest, before trial, following conviction, or during incarceration.

1. Specially designed programs in the correctional institutions for the developmentally disabled offenders.

2. Specially trained staff in correctional institutions and community-based programs to work with the developmentally disabled offender with programs already available.

3. Continuous staff development in correctional institutions and community-based programs.

4. Follow-up and supportive services to the developmentally disabled offender released from incarceration.

5. Investigate what community resources can be utilized or developed.

6. Develop community-based programs.

7. Pilot programs designed especially for the developmentally disabled offender and studied for their effectiveness before implementing on a statewide basis.

Community-based Agencies

The recommendations listed below have been developed as a result of an analysis of the data collected through a statewide questionnaire effort, and through interviews with community-based program personnel. The purposes of the data analysis were to identify agency needs, identify agency concerns, identify gaps in personnel needs. With these tasks completed, the following recommendations are presented:

1. Specialized programs for developmentally disabled offenders need to be developed within communities as alternatives to institutionalization.

2. Specialized staff development and training programs need to be developed by universities and community colleges as well as through special staff in-service training experiences.

3. Models of service development through demonstration project grants, via state agencies (D.M.H./D.D., Department of Corrections, D.C.F.S., I.L.E.C.) to community-based nonprofit agencies need to be initiated.

4. Existing community-based, not-for-profit agencies as well as new developing nonprofit community-based agencies should be encouraged to develop specialized programs within the following areas:

   (a) Specialized Living Arrangements: This would range from highly structured, highly supervised living situations to minimum structured, minimum supervised living situations operating on a continuum based upon individual need.

   (b) Specialized Counseling Services: This service would include one-to-one counseling with the developmentally disabled offender as well as family counseling approach.

   (c) Evaluation Services: This service would include a comprehensive medical-physical evaluation as well as attitudinal, aptitudinal, and psychological evaluation.

(d) Sheltered Employment Services: This service would provide for guided work-training skill development as well as on-the-job money earning experiences within a supervised setting.

(e) Educational Services: This service would provide for basic sight vocabulary, emergency sign and community services reading vocabulary with basic number and money concept development to a more advanced effort depending upon the needs of the individual.

(f) Information and Referral Services: This service would provide a fixed point of referral for state agencies, community agencies, individual clients, and client families as well as supportive service coordination activities and follow-up efforts.

APPENDIX A

LAW ENFORCEMENT SYSTEM

Research Instruments

QUESTIONNAIRE

1. Does your division offer any training to equip people in your program to work with mentally retarded offenders and defendants? If yes, please explain.

2. When did your division first offer training to equip people to work with mentally retarded offenders and defendants? Why?

3. Are there any plans for increasing the training for the staff of your division to enable them to better serve the mentally retarded offender or defendant? If yes, indicate the plan(s).

4. Does your division offer any training to equip people in your program to work with offenders or defendants who are epileptic? If yes, please describe.

5. Does your division offer any training to equip people in your program to work with offenders or defendants who have cerebral palsy? If yes, please describe.

6. Are there other divisions within your organization that offer training to work with the mentally retarded, the epileptic and/or persons stricken with cerebral palsy? If yes, please indicate.

QUESTIONNAIRE FOR POLICE TRAINING ACADEMY

1. Does your academy offer any training to your staff that will equip them to work with the mentally retarded offenders? If yes, please describe the content of the training as well as the amount of time spent in the sessions.

2. When did your academy first offer training to the staff working with mentally retarded offenders and defendants?

3. Are there any plans for increasing training for the staff of your organization to enable them to better serve the mentally retarded offender? If yes, indicate the plan.

4. Is inservice training available for members of the staff and/or follow-up training sessions? Be specific.

5. What is your assessment of the current training available for members of your staff?

6. Are there other divisions in the police department offering training to enable the staff to work with mentally retarded offenders and defenders? If yes, please spell out where this training is available.____________________________

____

____

____

7. Does your Academy offer any training to your staff that will equip them to work with offenders who have epileptic seizures? If yes, please describe.____________________

____

____

____

____

____

____

____

8. Does your Academy offer any training to your staff that will equip them to work with offenders who have cerebral palsy? If yes, please describe.______________

____

____

____

____

____

____

CWB:bb

QUESTIONNAIRE

1. Have you noticed any defendants or offenders who are mentally retarded in your agency?

   Yes______ No______

2. When did you first notice defendants and offenders who are mentally retarded?

3. Have you been able to receive help in determining which defendants or offenders are retarded?

   Yes______ No______

4. Who has aided you in making that determination?

5. Approximately what percentage of the defendants or offenders that you work with are mentally retarded?

   None____________
   1 to 20%________
   21 to 40%________
   41 to 70%________
   71 to 100%________

6. Do you handle defendants or offenders differently if they are retarded?

   Yes______ No______

7. Does your agency have special services for the mentally handicapped?

8. Is there training available in your agency to equip staff to work with mentally retarded people?

   Yes______ No______

9. If yes, have you received any training to work with the mentally handicapped?

10. Are there other services needed in your agency for the mentally retarded?________
    Please identify:________________________________

11. What services would you recommend for your agency? Please list.

12. What do you like about the treatment of the mentally retarded in your agency? Please identify.

13. What do you dislike most about the treatment of the mentally retarded in your agency? Please list.

14. Do you have any recommendations for programs to better service the mentally retarded defendants or offenders?

APPENDIX B

JUDICIAL SYSTEM

B - 1

RESEARCH INSTRUMENTS

C
CORRECTIONAL
SERVICES
CENTER
4803 SOUTH WABASH AVENUE
CHICAGO ILLINOIS 60615
312-928-1729

February 28, 1975

Dear Sir:

The Correctional Services Center, a private non-profit agency, is conducting an exploratory study of developmentally disabled persons (mentally retarded, severe epileptics, and severe cerebral palsied) who have been involved with the criminal justice system in the State of Illinois. The study seeks to obtain information about the experience and opinions of persons in the juvenile and adult system most likely to have had some contact with such defendants.

A short questionnaire has been enclosed which would take only a short amount of time to complete. We would appreciate your cooperation in completing the questionnaire. A self-addressed envelope is enclosed for your convenience.

Sincerely,

Vincent Bakeman
Vincent Bakeman
Principal Research Investigator

Lorraine R. Perry
Lorraine R. Perry, Ph.D.
Research Coordinator
Judicial System

:jm
enclosures

Judges

1. a. Adult Court Judges

What percentage of your assignments are devoted to criminal cases?

___ None ___ 1-25% ___ 26-50% ___ 51-75% ___ 76-100%

1. b. Juvenile Court Judges

What percentage of your assignments are devoted to cases of juvenile offenses, however designated, against persons or property?

___ None ___ 1-25% ___ 26-50% ___ 51-75% ___ 76-100%

2. About how many defendants would you estimate come before you per year? ___

3. In the course of your work, have you had any experience with defendants whom you believe to be developmentally disabled, such as mentally retarded, severely epileptic, or with severe cerebral palsy?

(1) Yes ___ (2) No ___ (3) Can't tell ___

If yes, what percentage of the defendants would you estimate to be in each category?

	Mentally Retarded	Severe Epileptics	Severe Cerebral Palsy
less than 1%	___	___	___
1-5%	___	___	___
6-10%	___	___	___
11-20%	___	___	___
over 20%	___	___	___

4. Generally, how might it come to your attention that a defendant might be suspected of being mentally retarded?

___ the defending attorney

___ the prosecuting attorney

___ other (please specify) ___

___ the family

___ the accused

5. Please indicate the measured IQ below which you would consider a person to be mentally retarded. ___

6. If a defense counsel were to claim that his client was mentally retarded, what evidence would you be willing to accept as verification? (Check as many as applicable.)

___ defense counsel's word

___ personal interview with defendant

___ school reports

___ others (list) ___

___ prosecution's word

___ psychological evaluation

___ interviews with family, friends, employers, etc.

7. In your work, would it be important to know if a defendant or offender were mentally retarded? That is, would it make a difference in the way he would be handled?

(1) Yes ___ (2) No ___ (3) Don't know ___

If yes, please explain ___

___

8. Are there established diagnostic services used by the court in your judicial circuit to perform clinical evaluations for persons believed to be developmentally handicapped, either mentally retarded, epileptic, or with severe cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes	___	___	___
No	___	___	___
If no, please explain briefly how evaluations are done.	___ ___ ___	___ ___ ___	___ ___ ___

9. Given the present legal situation, do you feel there are any circumstances where the use of mental retardation as a criminal defense would be detrimental to a defendant?
(1) Yes _____. If yes, please explain. ______________________________

(2) No _____.

10. Would you recommend alternatives to prison for developmentally disabled persons?
(1) _____ Yes.
(2) _____ Yes, but only if crime is not a serious felony.
(3) _____ Yes, but only if the person is severely mentally retarded, epileptic, or has severe cerebral palsy.
(4) _____ No.

If yes, which of the following options would you recommend as alternatives to prison for mentally retarded persons?
_____ Community based programs
_____ Mental retardation institutions
_____ Others (list) ______________________________

Based upon your awareness, to what degree to you think the following conditions are present in the criminal justice system?

	Never or Seldom	Sometimes	Frequently
11. Judicial personnel has sufficient skills to identify mental retardation.	_____	_____	_____
12. Lawyers have sufficient skills to identify mental retardation.	_____	_____	_____
13. Mental retardation is a favorable consideration in plea bargaining.	_____	_____	_____
14. Judges take into consideration clinical evaluations of mentallyretarded offender.	_____	_____	_____
15. Illinois law provides an adequate distinction between mental retardation and mental illness.	_____	_____	_____
16. The average officer of the court is aware of the distinction between mental retardation and mental illness.	_____	_____	_____
17. The average officer of the court is aware of (a)epilepsy or (b) cerebral palsy.	a. _____ b. _____	a. _____ b. _____	a. _____ b. _____
18. There are sufficient mechanisms to evaluate the mentally retarded offender.	_____	_____	_____

19. Please list any recommendations you might have in the manner in which the criminal justice system could handle defendants who are mentally retarded, severely epileptic, or have severe cerebral palsy.
(a) Mental Retardation ______________________________

(b) Severe Epilepsy ______________________________

(c) Severe Cerebral Palsy ______________________________

So that your answers can be compared with the answers of other judges, I would like to obtain some background information.

20. Where do you preside?
(1) Cook County _____ (2) Other urban area _____ (3) Rural area _____

21. How many years have you been a circuit court judge? __________

22. Sex: Male _____
Female _____

23. Race: Caucasian _____
Black _____
Other _____

24. Where did you go to law school or receive your legal training? ____________________
____

25. Have you received any training which you would consider relevant to dealing with mental retardation, epilepsy, or cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes.	_____	_____	_____
If yes, briefly describe.	____________ ____________ ____________	____________ ____________ ____________	____________ ____________ ____________
No.	_____	_____	_____

26. At what age did you graduate from law school?

27. In describing your previous legal experience, would you please check as many of the following as are applicable.

1. _____ Private criminal practice
2. _____ Private civil practice
3. _____ Prosecutorial work
4. _____ Non-prosecutorial government work
5. _____ Judiciary at any level (specify)
____
7. _____ Bank or trust company
8. _____ Public utility
9. _____ Law teacher
10. _____ Legal aid
11. _____ Other (list)
____

I realize that checklist items cannot always express the complexities of individual opinion. Should you so desire, please use this space or the back of the questionnaire to elaborate upon any of the above items. Also, it would be helpful for communications if you would list the names of any attorneys you know who deal with mental retardation.

Lawyer

1. What percentage of your practice is in the area of criminal defense?

_____ 1-25% _____ 26-50% _____ 51-75% _____ 76-100% _____ None

2. In the course of your work, have you had any experience with defendants whom you believe to be mentally retarded?

Yes _____ No _____ Unable to tell _____

If yes, approximately what percentage of the defendants that you deal with would you estimate to be mentally retarded?

_____ 1-5% _____ 6-10% _____ 11-15% _____ 16-20% _____ over 20%

3. Please indicate the measured IQ below which you would consider a person to be mentally retarded. __________

4. If you were to represent someone whom you suspected of being mentally retarded, how would you attempt to verify this? (Check as many as applicable.)

1. _____ by asking him questions
2. _____ by psychological evaluation
3. _____ by obtaining school records
4. _____ by talking to family, friends, employers, etc.
5. _____ other: List ______________________________

____

5. In your work, would it be important to know if a defendant or offender were mentally retarded? That is, would it make a difference in the way he would be handled?

(1) Yes _____ (2) No _____ (3) Don't know _____

If yes, please explain. ______________________________

____

6. Are there established diagnostic services used by the court in your judicial circuit to perform clinical evaluations for persons believed to be developmentally handicapped, either mentally retarded, epileptic, or with severe cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes	_____	_____	_____
No	_____	_____	_____
If no, please explain briefly how evaluations are done.	____________ ____________ ____________ ____________ ____________	____________ ____________ ____________ ____________ ____________	____________ ____________ ____________ ____________ ____________

7. Given the present legal situation, do you feel there are any circumstances where the use of mental retardation as a criminal defense would be detrimental to a defendant?

(1) Yes _____. If yes, please explain. ____

____

(2) No _____.

8. Would you recommend alternatives to prison for developmentally disabled persons?

(1) _____ Yes.
(2) _____ Yes, but only if crime is not a serious felony.
(3) _____ Yes, but only if the person is severely mentally retarded, epileptic, or has severe cerebral palsy.
(4) _____ No.

If yes, which of the following options would you recommend as alternatives to prison for mentally retarded persons?

_____ Community based programs
_____ Mental retardation institutions
_____ Others (list)

Based upon your awareness, to what degree do you think the following conditions are present in the criminal justice system?

	Never or Seldom	Sometimes	Frequently
9. Judicial personnel has sufficient skills to identify mental retardation.	_____	_____	_____
10. Lawyers have sufficient skills to identify mental retardation.	_____	_____	_____
11. Mental retardation is a favorable consideration in plea bargaining.	_____	_____	_____
12. Judges take into consideration clinical evaluations of mentally retarded offenders.	_____	_____	_____
13. Illinois Law provides an adequate distinction between mental retardation and mental illness.	_____	_____	_____
14. The average officer of the court is aware of the distinction between mental retardation and mental illness.	_____	_____	_____
15. The average officer of the court is aware of (a) epilepsy or (b) cerebral palsy.	(a) _____	_____	_____
	(b) _____	_____	_____
16. There are sufficient mechanisms to evaluate the mentally retarded offender.	_____	_____	_____

17. Please list any recommendations you might have in the manner in which the criminal justice system could handle defendants who are mentally retarded, severely epileptic, or have severe cerebral palsy.

____

____

So that your answers can be compared with the answers of other lawyers, I would like to obtain some background information.

18. How many years have you been a practicing lawyer?
_____ less than 1 year _____ 1-5 yrs. _____ 6-10 yrs. _____ 11-15 yrs. _____16-20 yrs
_____ over 20 years.

19. Where do you practice law?
(1) Urban area _____ (2) Rural area _____

20. What is your present employment position?
(1) _____ Independent private practice
(2) _____ Public or Community firm (Legal Aid, etc.)
(3) _____ Private partner in firm (size: _______________)
(4) _____ Other (list) _______________

21. What year were you born? _______________

22. Sex: Male _______ Female _______

23. Race: Caucasian _____
Black _____
Other _____

24. What was your undergraduate major? _______________

25. Where did you go to law school or receive your legal training? _______________
____

26. Have you received any training which you would consider relevant to dealing with mental retardation, epilepsy, or cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes.	_____	_____	_____
If yes, briefly describe.	_______________ _______________ _______________	_______________ _______________ _______________	_______________ _______________ _______________
No.	_____	_____	_____

27. At what age did you graduate from law school? _______________

28. In describing your previous legal experience, would you please check as many of the following as are applicable.

1. _____ Private criminal practice
2. _____ Private civil practice
3. _____ Prosecutorial work
4. _____ Non-prosecutorial government work.
5. _____ Judiciary at any level (specify)
____
7. _____ Bank or trust company
8. _____ Public utility
9. _____ Law teacher
10. _____ Legal aid
11. _____ Other (list) _______________
____

I realize that checklist items cannot always express the complexities of individual opinion. Should you so desire, please use this space or the back of the questionnaire to elaborate upon any of the above items. Also, it would be helpful for communications if you would list the names of any attorneys you know who deal with mental retardation.

District Attorney

1. What percentage of your practice is in the area of criminal defense?
   1. ____ 1-25% 2. ____ 26-50% 3. ____ 51-75% 4. ____ 76-100% 5. ____ None

2. In the course of your work, have you had any experience with defendants whom you believe to be mentally retarded?
   1. Yes ____ 2. No ____ 3. Unable to tell ____

   If yes, approximately what percentage of the defendants that you deal with would yoy estimate to be mentally retarded?

   ____ 1-5% ____ 6-10% ____ 11-15% ____ 16-20% ____ over 20%

3. Have you ever had any significant experience with a mentally retarded person outside your work?

   1. Yes ____. If yes, please explain briefly. ________________________________
   ____

   2. No. ____.

4. Please indicate the measured I.Q. below which you would consider a person to be mentally retarded. ____________

5. If a defense counsel were to claim that his client was mentally retarded, what evidence would you be willing to accept to verify this? (Check as many as applicable.)

   ____1. Defense counsel's word
   ____2. Personal interview with defendant
   ____3. Psychological evaluation
   ____4. School records
   ____5. Interviews with family, friends, employers, etc.
   ____6. Other: List ________________________________
   ____

6. In your work, would it be important to know if a defendant or offender were mentally retarded? That is, would it make a difference in the way he would be handled?

   (1) Yes ____ (2) No ____ (3) Don't know ____
   If yes, please explain. ________________________________
   ____

7. Are there established diagnostic services used by the court in your judicial circuit to perform clinical evaluations for persons believed to be developmentally handicapped, either mentally retarded, epileptic, or with severe cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes	____	____	____
No	____	____	____
If no, please explain briefly how evaluations are done.	____________ ____________ ____________ ____________	____________ ____________ ____________ ____________	____________ ____________ ____________ ____________

8. Given the present legal situation, do you feel there are any circumstances where the use of mental retardation as a criminal defense would be detrimental to a defendant?
   (1) Yes _____. If yes, please explain. ____
   ____
   (2) No ______.

9. Would you recommend alternatives to prison for developmentally disabled persons?
   (1) _____ Yes.
   (2) _____ Yes, but only if crime is not a serious felony.
   (3) _____ Yes, but only if the person is severely mentally retarded, epileptic, or has severe cerebral palsy.
   (4) _____ No.

   If yes, which of the following options would you recommend as alternatives to prison for mentally retarded persons?
   _____ Community based programs
   _____ Mental retardation institutions
   _____ Others (list)

Based upon your awareness, to what degree do you think the following conditions are present in the criminal justice system?

	Never or Seldom	Sometimes	Frequently
10. Judicial personnel has sufficient skills to identify mental retardation.	_____	_____	_____
11. Lawyers have sufficient skills to identify mental retardation.	_____	_____	_____
12. Mental retardation is a favorable consideration in plea bargaining.	_____	_____	_____
13. Judges take into consideration clinical evaluations of mentally retarded offenders.	_____	_____	_____
14. Illinois law provides an adequate distinction between mental retardation and mental illness.	_____	_____	_____
15. The average officer of the court is aware of the distinction between mental retardation and mental illness.	_____	_____	_____
16. The average officer of the court is aware of (a) epilepsy or (b) cerebral palsy.	(a)_____ (b)_____	_____ _____	_____ _____
17. There are sufficient mechanisms to evaluate the mentally retarded offender.	_____	_____	_____

18. Please list any recommendations you might have in the manner in which the criminal justice system could handle defendants who are mentally retarded, severely epileptic, or have severe cerebral palsy.
    ____
    ____

So that your answers can be compared with the answers of other lawyers, I would like to obtain some background information.

19. How many years have you been a practicing lawyer?
_____ less than 1 year _____ 1-5 yrs. _____ 6-10 yrs. _____ 11-15 yrs. _____16-20 yrs.
_____ over 20 years.

20. Where do you practice law? (1) Cook County _________
(2) Urban area _____ (3) Rural area _____

21. What is your present employment position and/or title? _______________________
____

22. What year were you born? ____________

23. Sex: Male ________ Female ____________

24. Race: Caucasian _____
Black _____
Other _____

25. What was your undergraduate major? _________________________

26. Where did you go to law school or receive your legal training? ______________
____

27. Have you received any training which you would consider relevant to dealing with mental retardation, epilepsy, or cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes.	_____	_____	_____
If yes, briefly describe.	____________ ____________ ____________	____________ ____________ ____________	____________ ____________ ____________
No.	_____	_____	_____

28. At what age did you graduate from law school? ________________

29. In describing your previous legal experience, would you please check as many of the following as are applicable.

1. _____ Private criminal practice
2. _____ Private civil practice
3. _____ Prosecutorial work
4. _____ Non-prosecutorial government work.
5. _____ Judiciary at any level (specify)
_______________________ ________
7. _____ Bank or trust company
8. _____ Public utility
9. _____ Law teacher
10. _____ Legal aid
11. _____ Other (list) ________
____

I realize that checklist items cannot always express the complexities of individual opinion. Should you so desire, please use this space or the back of the questionnaire to elaborate upon any of the above items. Also, it would be helpful for communications if you would list the names of any attorneys you know who deal with mental retardation.

Probation Officers

1. About how many cases would you estimate you handle per year? ______________

2. In the course of your work, have you had any experience with juvenile defendants whom you believe to be developmentally disabled, including mentally retarded, severely epileptic, or with severe cerebral palsy?

	Yes	No	Unable to tell
Mentally retarded	____	____	____
Severely epileptic	____	____	____
Cerebral palsy	____	____	____

If yes to any of the above, what percentage of the defendants would you estimate fall in each category?

	less than 1%	1-5%	6-10%	11-20%	over 20%
Mental retardation	____	____	____	____	____
Severe epilepsy	____	____	____	____	____
Cerebral palsy	____	____	____	____	____

3. Please indicate the measured IQ below which you would consider a person to be mentally retarded. ______________

4. Briefly describe the various types of information that would generally be included in your social history report of a juvenile.

____

____

____

5. In your opinion, do you think your assessment of social history influences the court's decision about handling of a juvenile defendant?
(1) Yes ____ (2) No ____

6. When submitting your diagnostic findings to the court, do you usually present a written or verbal report?

____ usually written

____ usually written, but occasionally verbal

____ usually verbal

If verbal report is occasionally used, briefly describe the condition under which this is done.

____

____

____

7. Given the present legal situation, do you feel there are any circumstances where the use of mental retardation as a criminal defense would be detrimental to a defendant?

(1) Yes _____. If yes, please explain. ______________________________

____

(2) No _____.

8. Would you recommend alternatives to prison for developmentally disabled persons?

(1) _____ Yes.

(2) _____ Yes, but only if crime is not a serious felony.

(3) _____ Yes, but only if the person is severely mentally retarded, epileptic, or has severe cerebral palsy.

(4) _____ No.

If yes, which of the following options would you recommend as alternatives to prison for mentally retarded persons?

_____ Community based programs

_____ Mental retardation institutions

_____ Others (list)

Based upon your awareness, to what degree do you think the following conditions are present in the criminal justice system?

	Never or Seldom	Sometimes	Frequently
9. Judicial personnel has sufficient skills to identify mental retardation.	_____	_____	_____
10. Lawyers have sufficient skills to identify mental retardation.	_____	_____	_____
11. Mental retardation is a favorable consideration in plea bargaining.	_____	_____	_____
12. Judges take into consideration clinical evaluations of mentally retarded offenders.	_____	_____	_____
13. Illinois law provides an adequate distinction between mental retardation and mental illness.	_____	_____	_____
14. The average officer of the court is aware of the distinction between mental retardation and mental illness.	_____	_____	_____
15. The average officer of the court is aware of (a) epilepsy or (b) cerebral palsy.	(a) _____ (b) _____	_____ _____	_____ _____
16. There are sufficient mechanisms to evaluate the mentally retarded offender.	_____	_____	_____

17. Please list any recommendations you might have in the manner in which the criminal justice system could handle defendants who are mentally retarded, severely epileptic, or have severe cerebral palsy.

____

____

So that your answers can be compared with the answers of other Probation Officers, I would like to obtain some background information.

21. What is your current position? ______________________________

22. How long have you been in your position? ______________________________

23. Where do you practice? (1) Cook County _____ (2) Other urban area _____
(3) Rural area _____

24. What year were you born? ____________________

25. Sex: Male _____
Female _____

26. Race: Caucasian _____
Black _____
Other _____
_____

27. What was your major in college? Graduate ______________________________
Undergraduate ______________________________

28. Have you received any training which you would consider relevant to dealing with mental retardation, epilepsy, or cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes.	_____	_____	_____
If yes, briefly describe.	____________ ____________ ____________	____________ ____________ ____________	____________ ____________ ____________
No.	_____	_____	_____

I realize that checklist items cannot always express the complexities of individual opinion. Should you so desire, please use this space or the back of the questionnaire to elaborate upon any of the above items. Also, it would be helpful for communications if you would list the names of any attorneys you know who deal with mental retardation.

Clinical Services

1. Please check categories of persons for which your agency is equipped to provide evaluations.

_____ emotionally, mentally disturbed
_____ mentally retarded
_____ severe epileptic
_____ severe cerebral palsy
_____ other(s) (specify) ______________________________

2. Approximately how many cases are referred by the court to your department each year?

____

3. About what percentage of the cases are diagnosed as unfit to stand trial?

____ 1-25% _____ 26-50% _____ 51-75% _____ 76-100%

(a) Of those diagnosed as "unfit to stand trial", what percentage would fall in the following categories?

	Mentally Retarded	Severe Epileptics	Severe Cerebral Palsy
less than 1%	_____	_____	_____
1-5%	_____	_____	_____
6-10%	_____	_____	_____
11-20%	_____	_____	_____
over 20%	_____	_____	_____

4. In the course of your work, have you personally had any experience with defendants whom you believe to be mentally retarded?

(1) Yes _____ (2) No _____ (3) Unable to tell _____

If yes, about how many? _______________

5. Please indicate the measured IQ below which you would consider a person to be mentally retarded. _______________

6. Please list all the tests and methods used in your department to determine whether or not a person is mentally retarded: ______________________________

____

____

7. In your opinion, are the evaluation tools used in your agency adequate to determine mental retardation?

_____ more than adequate
_____ sufficiently adequate
_____ only somewhat adequate
_____ not adequate

8. When submitting your diagnostic findings to court, do you usually present a written or verbal report?

_____ usually written
_____ usually written, but occasionally verbal
_____ usually verbal

If verbal report is occasionally used, briefly describe the condition under which this is done.

____

____

9. In your opinion, do you think your assessment of a person's "fitness to stand trial" influences the court's decision about the handling of an accused person?

_____ Yes   _____ No

If yes, please describe briefly: ______________________________

____

10. Given the present legal situation, do you feel there are any circumstances where use of mental retardation as a criminal defense would be detrimental to a defendant?
(1) Yes _____. If yes, please explain: ______________________________

____

(2) No. _____.

11. Would you recommend alternatives to prison for developmentally disabled persons?
(1) _____ Yes.
(2) _____ Yes, but only if crime is not a serious felony.
(3) _____ Yes, but only if the person is severely mentally retarded, epileptic, or has severe cerebral palsy.
(4) _____ No.
If yes, which of the following options would you recommend as alternatives to prison for mentally retarded persons?
_____ Community based programs
_____ Mental retardation institutions
_____ Others (list) ______________________________

Based upon your awareness, to what degree do you think the following conditions are present in the criminal justice system?

	Never or Seldom	Sometimes	Frequently
12. Judicial personnel has sufficient skills to identify mental retardation.	_____	_____	_____
13. Lawyers have sufficient skills to identify mental retardation.	_____	_____	_____
14. Mental retardation is a favorable consideration in plea bargaining.	_____	_____	_____
15. Judges take into consideration clinical evaluations of mentally retarded offender.	_____	_____	_____
16. Illinois law provides an adequate distinction between mental retardation and mental illness.	_____	_____	_____
17. The average officer of the court is aware of the distinction between mental illness and mental retardation.	_____	_____	_____
18. The average officer of the court is aware of (a) epilepsy or (b) cerebral palsy	a. _____	_____	_____
	b. _____	_____	_____
19. There are sufficient mechanisms to evaluate the mentally retarded offender.	_____	_____	_____

20. Please list any recommendations you might have in the manner in which the criminal justice system could handle defendants who are mentally retarded, severely epileptic, or have severe cerebral palsy.
(a) Mental retardation ______________________________

____

(b) Severe epilepsy ______________________________

____

(c) Severe cerebral palsy ______________________________

____

So that your answer can be compared with the answers of other Clinical Services personnel, I would like to obtain some background information.

21. What is your current position? ____________________

22. How long have you been in your position? ____________________

23. Where do you practice? (1) Cook County _____ (2) Other urban area _____
(3) Rural area _____

24. What year were you born? ____________________

25. Sex: Male _____
Female _____

26. Race: Caucasian _____
Black _____
Other _____

27. What was your major in college? Graduate ____________________
Undergraduate ____________________

28. Have you received any training which you would consider relevant to dealing with mental retardation, epilepsy, or cerebral palsy?

	Mental Retardation	Epilepsy	Cerebral Palsy
Yes.	_____	_____	_____
If yes, briefly describe.	______________ ______________ ______________	______________ ______________ ______________	______________ ______________ ______________
No.	_____	_____	_____

I realize that checklist items cannot always express the complexities of individual opinion. Should you so desire, please use this space or the back of the questionnaire to elaborate upon any of the above items. Also, it would be helpful for communications if you would list the names of any attorneys you know who deal with mental retardation.

B - 2

NUMBER OF JUDGES IN THE SAMPLE SELECTION FROM EACH JUDICIAL CIRCUIT

	Number
Cook County	41
First	3
Second	3
Third	4
Fourth	3
Fifth	3 *
Sixth	5 **
Seventh	2
Eighth	3
Ninth	3
Tenth	4
Eleventh	3
12th	4
13th	2
14th	3
15th	3
16th	5
17th	3
18th	4
19th	4
20th	2
	108

* Includes one referral

** Includes two referrals

B - 3

SUMMARY OF THE DISTRIBUTION OF JUDICIAL PERSONNEL INCLUDED IN THE ORIGINAL SAMPLE SELECTION

Judges	
Cook County	41
Outside Cook County	67
Total	108
Lawyers	
(Public)	
Cook County	47
Outside Cook County	36
Sub Total	83
(Private)	
Cook	58
Outside Cook County	30
Sub Total	88
Total	171
Probation Officers	
Cook	10
Clinical Services	
Adult	3
Juvenile	5
	8
GRAND TOTAL	297

APPENDIX C

CORRECTIONAL SYSTEM

CORRECTIONAL INSTITUTIONS RECEIVING MAILED QUESTIONNAIRES

United States Penitentiary	Marion *
Illinois Department of Corrections (Adult Division)	
Illinois State Penitentiary	Joliet
	Stateville
	Menard *
	Menard Psychiatric Division
	Pontiac *
	Sheridan
	Vienna
Illinois State Farm	Vandalia *
State Reformatory for Women	Dwight *
Reception and Diagnostic Center 2	Joliet *
	Menard
Illinois Department of Corrections (Juvenile Division)	
Illinois Youth Center	St. Charles
	Geneva *
	DuPage *
	Kankakee *
	Pere Marquette *
	Valley View *
Cook County Department of Corrections	
Division #1	Cook County Jail
#2	House of Correction *
Women's Division	Cook County Jail *
Cook County	Adult Probation Office

TOTAL NUMBER MAILED QUESTIONNAIRES: 22

* Institutions returning questionnaires -- N = 13

C - 2

RESEARCH INSTRUMENTS

C
CORRECTIONAL
SERVICES
CENTER
4803 SOUTH WABASH AVENUE
CHICAGO ILLINOIS 60615
312-928-1729

Dear Sir:

The Illinois Department of Mental Health and Correctional Services for the Developmentally Disabled, Inc., a non-profit Illinois corporation have entered into a contractual agreement in cooperation with the Governor's Advisory Council on Developmental Disabilities for the purpose of providing services and performing a planning study of the developmentally disabled offender in the Illinois criminal justice system.

The general objectives of the study are to examine the current status of the developmentally disabled in three components of the criminal justice system, e.g., law enforcement, corrections, and community based programs.

Your cooperation in the study and subsequent research is hereby requested by completion of the enclosed questionnaire as it relates to your particular aspect of the system.

The target date for completion and return of all questionnaires is Friday, April 4, 1975. A self-addressed stamped envelope is enclosed for your convenience in reply.

Sincerely,

Vincent Bakeman

C. VINCENT BAKEMAN
Project Director

Herbert Scott

HERB SCOTT, JR.
Principal Investigator
Corrections Component

THE DEVELOPMENTALLY DISABLED OFFENDER IN THE ILLINOIS CRIMINAL JUSTICE SYSTEM

Questionnaire - Correctional System Component

1. What was the total population of your institution as of January 1, 1975? Male _____ Female _____

2. What is the average daily population of the institution?

3. What percent of your institutional population possess IQ's of 69 and below?

4. What percent of your institutional population possess IQ's of 55 and below?

5. Does your institution routinely administer a testing program to all inmates upon admission? Yes ____ No _____

6. If answer to #5 above is "yes", what type(s) of tests are given? List and describe briefly.

7. What "special" services does the institution provide for the developmentally disabled (the mentally retarded and those with histories of cerebral palsy and/or epilepsy) e.g, diagnostic services, academic/vocational counseling, etc. List and describe briefly.

8. What "special" programs does the institution provide for the developmentally disabled (see definition in #7 above), e.g., specialized academic/vocational training, etc. Please list and describe program content of each briefly.

9. Please state briefly your opinion(s) concerning the "special" problems and/or needs presented by the mentally retarded in the criminal justice system or in correctional institutions.

10. Title (Position) of person completing questionnaire __________

11. What is your educational background?

a. some college _____
b. college graduate ____
c. some graduate training ___
d. graduate degree ____
e. area of specialization

12. How many years of experience do you have working in the correctional system?

a. Less than one
b. one to two (1-2-)
c. three to five (3-5)
d. six to ten (6-10)
e. More than ten (10) years (Specify number) _____

13. Name of institution reporting______________________________
Adult ____ Juvenile _____

14. Please comment on any other areas that your feel are relevant to this study not covered by this questionnaire.

INTERVIEW SCHEDULE FOR CORRECTIONAL PERSONNEL
(Institutional, Probation and/or Parole)

1. Does your system identify mentally retarded offenders? If "yes" what methods are used?

2. How is mental retardation defined by (or in) your system?

3. Does your system have (or participate in) a cooperative program with other agencies for the mentally retarded offender?

4. How many adults (over age 17) and/or juveniles are served by your system?

5. What percentage of your population would you estimate as being mentally retarded?

6. What, if any, would you say are the problems presented by the mentally retarded in your system?

7. What programs, if any, are available to you to deal with the problems presented by the mentally retarded in your system?

8. Does your system employ any "special" staff or provide any type of specialized training to those personnel who handle the mentally retarded offender?

9. In your opinion, how effective are the programs utilized by (or in) your system to handle the mentally retarded?

10. What suggestions do you have to more adequately and effectively handle the mentally retarded in your system?

Date of interview _______ Interviewer ________________

Classification (Position) of respondent ________________

APPENDIX D

CASE STUDIES

Research Instrument

INTERVIEW SCHEDULE

Race____________________ I.Q.________________

Age______ D.O.B.________ Employed - Yes_______ No ________

Sex______ Income $_____________

Marital Status: Single_____ Married_____

Separated_____ Divorced_____ Ill-U_____

Where subject grew up: Cook County_____ Other___________________

Family Composition in formative years: Broken_____ Complete_____

History of Problems as Child: School_____ Family_____ Police__________

Offense__________

Offense____________________________________

Status in Criminal Justice System:_____________________________________

(Pre-trial, probation, incarcerated, half-way house, parole, discharged.)

How do you feel about your experiences in Criminal Justice System?

Training Received: Vocational________ Academic________ Industrial_______

in Dept. of Mental Health

in Correctional Institution

in the community

Total years served in Correctional Institutions________________________

Offender's comment about training

helpful__________ punitive__________ neutral___________________________

(not helpful, not punitive)

Relative, probation officer, social worker's comment on training:

helpful__________ punitive__________ not helpful______________________

APPENDIX E

COMMUNITY AGENCIES

Research Instruments

COMMUNITY AGENCIES QUESTIONNAIRE

1. Please indicate where you are located:

_____Cook County

_____Outside Cook County

2. Please estimate population in your service area:

_____ 0 - 25,000
_____ 25,000 - 100,000
_____ 100,000 - 150,000
_____ 500,000 - and more

3. Which of the following groups do you serve?

_____ Mentally Retarded
_____ Cerebral Palsied
_____ Epileptic
_____ Other (specify)_______________

4. Which of these services do you provide and to what age groups? If yes, please indicate age range served.

Service provided	Yes	No	Age range
1. Evaluation			
2. Diagnostic Service			
3. Treatment			
4. Daycare			
5. Training			
6. Education			
7. Sheltered Employment			
8. Domiciliary Care			
9. Special Living Arrangements			
10. Personal Care			
11. Information and Referral Service			
12. Counseling			
13. Follow-Along			
14. Protective Service			
15. Recreation			
16. Transportation			
17. Other (please describe			

5. Do you currently have in any part of your program people who fit the following description? If so please estimate the number of people served from each of the six groups and

indicate the service they receive by using the numbers that correspond to the services listed in the previous question.

	In Program Yes	In Program No	How Many	Which Services Use Number Question #2
A. Currently incarcerated in release program	____	____	____	______________
B. On parole	____	____	____	______________
C. Formerly incarcerated	____	____	____	______________
D. On probation	____	____	____	______________
E. Referred by police courts, etc., station adjustments	____	____	____	______________
F. Known to have been involved in delinquent acts or in trouble with police	____	____	____	______________

6. Have you ever served people in any of these six groups (A-F)? If so, please estimate total number of each group served and the services they received.

	Ever Served Yes	Ever Served No	About How Many	Which Services Use Number Question #2
1. Mentally Retarded	____	____	____	______________
2. Cerebral Palsied	____	____	____	______________
3. Epileptic	____	____	____	______________
4. Other (specify)	____	____	____	______________

7. If your program has had any experience with any of the offenders, potential or ex-offenders mentioned above, did you find that these persons had any special needs or presented any special problems that were different from other people you serve? Yes_______ No_______
If yes, please explain briefly what these special needs or problems were____

____

____

8. Does your staff have any special training for serving or handling developmentally disabled offenders?

____Yes ____No

If yes, please explain briefly______________________________

____

____

9. What kind of special training for handling developmentally disabled offenders would you recommend for staff in community based programs like yours?______________________

____

____

10. In your opinion which of the following services are most needed by developmentally disabled offenders? Put "1" by the service you think most needed, "2" by the service needed next, and so on until you have ranked the needed services, leaving blank those services not specially needed by this group.

_____ Evaluation
_____ Diagnostic Service
_____ Treatment
_____ Daycare
_____ Training
_____ Education
_____ Sheltered Employment
_____ Domiciliary Care
_____ Special Living Arrangements
_____ Personal Care
_____ Information and Referral Service
_____ Counseling
_____ Follow Along
_____ Protective Service
_____ Recreation
_____ Transportation
_____ Other (please describe)

11. If funds were available, which of these services listed in number 10 would your agency be interested in providing for this group?____

____

12. In addition to the 17 listed services, are there other specialized services you believe should be provided through community-based programs for developmentally disabled offenders? Please indicate. ___________________________________

____

____

COMMUNITY PROGRAM INTERVIEW QUESTIONNAIRE

1. Have you noticed any defendants or offenders who are mentally retarded in your agency?

Yes_____ No_____

2. When did you first notice defendants and offenders who are mentally retarded?

3. Have you been able to receive help in determining which defendants or offenders are retarded?

Yes_____ No_____

4. Who has aided you in making that determination?

5. Approximately what percentage of the defendants or offenders that you work with are mentally retarded?

None___________

1 1 to 20%________

21 to 40%_______

41 to 70%_______

71 to 100%______

6. Do you handle defendants or offenders differently if they are retarded?

Yes_____ No_____

7. Does your agency have special services for the mentally handicapped?

8. Is there training available in your agency to equip staff to work with mentally retarded people?

Yes_____ No_____

9. If yes, have you received any training to work with the mentally handicapped?

10. Are there other services needed in your agency for the mentally retarded?__________

Please identify:____

11. What services would you recommend for your agency? Please list.

12. What do you like about the treatment of the mentally retarded in your agency? Please identify.

13. What do you dislike most about the treatment of the mentally retarded in your agency? Please list.

14. Do you have any recommendations for programs to better service the mentally retarded defendants or offenders?